

THE  
HISTORY  
OF  
THE UNITED STATES,

FROM  
THEIR COLONIZATION

TO

THE END OF THE TWENTY-SIXTH CONGRESS, IN 1841.

BY

G E O R G E T U C K E R.

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HISTORY  
OF THE  
UNITED STATES.

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CHAPTER IX.

ADAMS'S ADMINISTRATION.

1797—1799.

UNDER the administration of Mr. Adams, the United States were about to be put to a new course of trials, both in their foreign relations and in the contests of their domestic parties. The difficulties with Great Britain had indeed been settled by Jay's treaty, but the country was partly, if not principally, by reason of that very treaty, about to be involved in similar difficulties with France that exposed it to some dangers from which the disputes with Great Britain had been exempt.

In the first place, France, both from her having been an efficient ally of the United States in achieving their independence, and from the lively interest taken by the American people in her revolution, had so many friends in the country, as greatly to weaken the power of its government in resisting and resenting her recent aggressions. While the friends of France in America separated themselves from their own government in the points at

issue between the two nations, they did not draw a similar line of distinction between the French people to whom their gratitude and sympathy were properly due, and those cunning, unprincipled men whom the whirlpool of the revolution had elevated to the summit of power, and whose conduct ought to have provoked the resentment of all Americans. The French government, too, ill-affected towards the American administration, did not make a discrimination in favor of their friends in the United States, but committed depredations on all alike. The friends of France in this country, moreover, also confounding innocence with guilt, in their blind and ardent zeal for the French nation, were the open apologists, first, for the crimes and bloodshed of the revolution, and subsequently for the insolence, extortion, and corruption of some of the most unprincipled men who ever possessed themselves of power. The consequence was, that while we thus suffered by the undiscriminating injustice of the French nation, we were less able to retaliate it by reason of our own indiscriminate approbation.

In the next place, the hostility of France was more formidable from the extraordinary success of the French arms — the natural result of an enthusiastic army conducted by a military system which gives promotion to the best talents, whatever their station in life — and it did not seem improbable that France, after having compelled all her enemies on the European continent to make peace, and thus having no enemy left but Great Britain, might turn loose upon our shores her hungry veterans, long inured to conquest and booty; in which case, as Mr. Jay had remarked, we must expect to meet with very different generals from those who were in America during the Revolution.

The sagacious mind of Hamilton thought this a dan-

ger which ought not to be overlooked, and he laid stress on it in recommending a special mission to France, after that of Pinckney had evidently failed—of which Mr. Madison or Mr. Jefferson should constitute a part—as the likeliest means of either securing a peace with France, or, if that should fail, of uniting the American people.

There was, moreover, a considerable portion of the American people, comprehending nearly the whole Federal party, who had a dread of French fraternity, which far exceeded any sentiment of hostility to Great Britain. From the latter was apprehended only those measures which would extend the market for her manufactures, put down rivalry in commerce, capture their property at sea, and occasionally impress their fellow-citizens—serious evils, indeed, and sufficient to make her hated as at once rapacious and tyrannical; but, in the case of France, their excited minds saw not only that their extensive commerce was subjected to the heaviest exactions and spoliations, but that their government itself might be overturned — their religion, morals, every thing they held sacred and pure, might be profaned and corrupted; and this mass of calamity was, from its undefined character, naturally heightened by the play of the imagination.

To these difficulties growing out of the foreign relations of the government, others were apprehended from the recent change in the administration. The weight and influence of Washington, though lessened with a portion of his countrymen, were still infinitely greater than those of any other man; and if, as some apprehended, the opposers of his foreign policy had been gradually gaining ground in both Houses of the Legislature, and had even risen to a majority in the most numerous branch, how, it was asked, would the new President, whose political tenets had been long held in

distrust by one-half of the nation; be able to stem the tide of opposition? Nor had all his own party confidence in his judgment and discretion. An excessive personal vanity was said, by some of them, to be his ruling foible, and that it would be always likely to betray him into a course of conduct injurious to the public interest, as well as to his own dignity and respectability. These were, even then, known to be Hamilton's opinions; and they were subsequently adopted by some of those who were, ostensibly, among the principal supporters of the new President.

Such were the dangers to which Mr. Adams was exposed on the threshold of his administration.

On the fourth of March, in the presence of a crowded assembly in the House of Representatives, he delivered his inaugural address.

He began by adverting to the Revolution which had made this country independent; to the insufficiency of the temporary government that had first been adopted; and to the merits of that which had been happily substituted in its place. He was abroad when the latter was formed; but it had, from the first, received his unbiassed approbation. He then takes occasion to disclaim any wish that the Executive and Senate had been made more permanent. Having remarked that the success of the Constitution had equalled the most sanguine anticipations of its friends, he indulges in a warm eulogy on its merits as a government whose ends are the public good, and whose means are the popular will. A caution is then given against the dangers resulting from party abuses and foreign influence.

He passes from the commendation of the government to him who had administered it for eight years, on whose actions and virtues he bestows a lofty panegyric. He

concludes with a summary of his own political creed and principles, which he affirms to be truly republican, respectful of State rights, and strictly just to all local interests. He professes a wish to improve every branch of profitable industry; a spirit of equity and humanity towards the aborigines; a love of peace; a personal esteem towards the French nation; elevated ideas of the high destinies of his country; a veneration for religion; and an especial respect for Christianity.

The very great desire which was manifested by the new President to exhibit his confidence in popular government, by seeming to admit that there was at least colorable grounds for the imputation against him on that subject, was calculated rather to strengthen than weaken these imputations, according to the maxim of *qui s'excuse s'accuse*.

Let us now revert to the relations of the United States with France.

On General Pinckney's arrival in Paris, Mr. Monroe was officially informed by the French government that they would not receive another Minister from the United States, until satisfaction was made for the injury received by the French republic.<sup>1</sup> On learning this, Mr. Pinckney wrote to Mr. De La Croix, the Minister for Foreign Affairs, expressing his regret at this declaration, and professing, both on behalf of the United States and himself, friendly feelings towards the French republic, and his anxious desire for a restoration of harmony between the two countries. He adds that, as Mr. Monroe's diplomatic functions had terminated by his recent recall, the French Minister's communications should now properly be made to him; and he wished to know whether it was the intention of the Directory that he should immediately

<sup>1</sup> December 11th, 1796.

quit the territories of the republic, or that he and his family might remain in France until he heard from his government.

To this letter, sent by his Secretary of Legation, Mr. Pinckney received only an oral answer, which was, that the Directory probably meant that he was to quit not only Paris, but the territories of the republic. The American Minister replied that he should nevertheless insist on being recognised and treated as the accredited Minister of his country, and have letters of safe-conduct and passports. He also requested that any communications to him from the Minister of Foreign Affairs should be in writing. He accordingly did receive from that Minister a written notice to quit the territories of the republic; on which<sup>1</sup> he repaired to Amsterdam by a tedious and expensive journey.

The Executive Directory subsequently published a decree,<sup>2</sup> which, after referring to its previous decree respecting neutrals, provides that, in conformity with the treaty between the United States and Great Britain, all merchandize conveyed under the American flag, which is not ascertained to be neutral, should be confiscated—the ship, however, should be released; and that all the articles declared contraband by that treaty should be confiscated when destined for the enemy; that every American ship not having a list of the crew (*role d'équipage*) according to the treaty of 1778, should be deemed a lawful prize; that every American citizen holding a commission from the enemies of France,<sup>3</sup> and every

<sup>1</sup> February 17th, 1797.

<sup>2</sup> March 2d, 1797. According to Joel Barlow, American Minister to France, this decree was published the day after they received the news of the election of Mr. Adams, and in consequence of that election.

<sup>3</sup> III. American State Papers, page 132.

American seaman composing part of the crew of an enemy's ship, should be declared piratical, and be precluded from showing that his act was the consequence of threats or violence.

The intelligence of these procedures in France had a great effect on both parties in the United States. To most of the Republican or Anti-Anglican party it was a source of great mortification; since it was calculated to rouse the indignation of the American people, and thus to strengthen their political opponents. On the other hand, although it was, on the same account, not unacceptable to the more zealous portion of the Federal party, yet to the administration, and to all those who did not postpone the interest of their country to that of their party, it was most unwelcome and embarrassing. What course was the administration now to pursue? To submit to the course of lawless aggressions on their citizens and commerce, now openly avowed, as well as to the indignity offered to their accredited Minister, was a degree of humiliation which neither they nor a majority of the nation would endure; and which must moreover prove destructive to their party itself. At the same time, to go to war with France, however justifiable, and however called for by some of the Federalists, was a course pregnant with great difficulty and hazard. The military power of that nation was truly formidable, and the greater from the *prestige* of her extraordinary tide of success. Such a war would be violently opposed by the large number who, having taken sides with her in her European contests, were still her adherents and apologists, and who would draw arguments from the war to support their charges against the Federalists of acting in subserviency to Great Britain, and in hostility to republican government. Some, too, who had no faith in these charges, would be willing to

submit to French influence in the United States, as the condition of obtaining the overthrow of their Federal opponents.

Further negotiation, then, was the only course left for the administration, which seemed consistent either with the interests of the country or their own safety. But even then there were questions of doubt and perplexity. Should there be another mission to France, or merely a readiness indicated on the part of the American government to send a Minister as soon as France would give assurance that one would be received? If the former course should be decided on, as the President professed to prefer, indeed as the urgency of affairs seemed to demand, should a known friend to France make one of the mission, by way both of securing the favor and confidence of the French government, and of giving assurance at home that the administration was sincerely desirous of accommodation?

On both of these questions Mr. Adams differed with the leading members of his Cabinet. Both Wolcott and Pickering thought it derogatory to self-respect to send another Minister; but the President was decidedly in favor of it, as was Hamilton, who, after he ceased to be a member of Washington's Cabinet, never ceased to be one of his counsellors, and who was still in close correspondence with Wolcott and Pickering. Fisher Ames also advised a second mission. The President, as well as Hamilton, was in favor of making Mr. Madison one of the mission; but Pickering and Wolcott, more under the control of party feelings, were opposed to it. It was thought prudent, under the circumstances, to call an extra session of Congress; and accordingly one was convened on the fifteenth of May.

Quorums of both Houses assembled on that day, and

the next day the President addressed them in a speech characterized by good sense, moderation and firmness. It was prepared by Adams himself, but many of its topics had been suggested by Wolcott.

After advertizing to the necessity of convening Congress at so inconvenient a season, and congratulating them, as his predecessor had generally done, on the blessings they enjoyed, he informs them of the refusal of the French government to receive the Minister sent to France by Washington to restore the good understanding which formerly subsisted between the two nations; and that the envoy had even been required to quit the territories of the republic.

This refusal to receive a foreign Minister, which, according to the usage of nations, is the denial of a right, he contrasts with the marked respect shown to General Pinckney's predecessor, Mr. Monroe, on his audience of leave. The speech of the President of the Directory, on that occasion, he remarks, discloses sentiments yet more alarming than the rejection of a Minister, because they are more dangerous to our union and independence, for they aim to separate the people of the United States from their government. We were therefore bound to show to France and the world that we are not so degraded as to be the fit instruments of foreign influence.

Anxious as he was to preserve peace and friendship with all nations, and believing that neither the honor nor the interests of the United States forbade the repetition of pacific advances, he should make a second attempt at negotiation, with a disposition to correct any error or repair any injuries which we may have committed. He notices the decree of March the second, as at once injurious to our lawful commerce, and endangering the lives of our citizens.

The frequency of wrongs of this character earnestly recommends a naval establishment to the United States, both because it is their natural defence, and their country possesses all the requisites.

For present defence he advises Congress to make such regulations as will enable American vessels to defend themselves while prosecuting a lawful commerce ; to equip the three frigates, and to provide inferior vessels for convoys.

He suggests for the consideration of Congress, that most of the cruisers which have preyed on the commerce of the United States have been built, and some of them equipped in this country ; and that American citizens abroad have fitted out privateers for the same iniquitous purpose. He also advises an addition to the artillery and cavalry, and a revision of the militia laws.

Though we ought, he thinks, to keep aloof from the political systems of Europe if we can, yet the other foreign powers will consider the United States as forming a weight in the balance of power. Both our interest and justice to others, however, should prevent us from throwing that weight into either scale : that our policy as a neutral advises us to consult with other neutrals. He again adverts to the attempt to divide the government and the people, which we were bound to repel by every sentiment of patriotic duty.

The day after the speech the Secretary of State sent on the documents concerning the relations of the United States with France, and also a letter received from the Spanish Minister, Yrujo, dated the sixth of May, 1797.

This Minister states that the King, his master, after having made a treaty with the United States, in which the liberal principle of free ships making free goods was adopted — a principle so advantageous to the United

States—was greatly surprised to find that they had made a treaty with Great Britain which was prejudicial to the rights and interests of his subjects; since, by that treaty, their property may be seized when under the guard of neutrality, while they are obliged to respect English property placed in the same circumstances. He makes a similar objection to the article in Jay's treaty respecting contraband; the effect of which, he said, was to give the commerce in naval stores exclusively to the English.

He then objects to the cession made by the United States to England, of the navigation of the Mississippi, which, having been derived by them from Spain, could not be transferred to another nation. He urges that, by the treaty of 1783, when Great Britain held East and West Florida, the navigation of the Mississippi was to be free to the subjects of Great Britain and the citizens of the United States; but that, after the subsequent cession of the Floridas to Spain, in 1783, Great Britain not having reserved the right to that navigation, she lost it entirely when she made Spain mistress of both banks of the Mississippi. The cession, then, of this navigation to a nation that does not own a foot of land on its banks was utterly void.

To this letter Mr. Pickering replied on the very day<sup>1</sup> that he transmitted the documents to Congress. He said that the two rules respecting neutral rights were reciprocal. They operated in favor of the United States now, when they were at peace, and would operate in favor of Spain when their situations should be reversed. He reminds Mr. Yrujo that the sentiments of the British government had been long known, and that the treaty with Great Britain was made in 1794, and published in

<sup>1</sup> May 17th.

1796, some months before the treaty with Spain was concluded, so that the United States could not be charged with bad faith towards Spain.

As to the navigation of the Mississippi, he denies that the right of the United States is derived solely from the cession of Spain, or that Great Britain derived it from the United States. She stipulated for it in her treaty with France in 1763.

When peace was made in 1783 between the United States and Great Britain, both were entitled to the free navigation of the Mississippi; and both being desirous of retaining it, they stipulated for its continuance. When it was afterwards proposed by the Spanish government that the treaty between the United States and Spain, in 1795, should stipulate for their exclusive navigation of that river, Mr. Pinckney, the American Minister, objected, on the ground that such an agreement would be a violation of good faith towards Great Britain.

The answer of the Senate, in which the Federal party had a decided preponderance, was entirely respectful, and echoed every part of the President's speech which related to the conduct of the United States towards France, and to the proper course of policy. The resolutions were passed by fourteen votes to ten.<sup>1</sup>

In the House of Representatives there was more difficulty. There the majority of Federalists had succeeded in re-electing Jonathan Dayton Speaker, who had been less vehemently opposed, because he was then regarded almost as a neutral between the two parties.

The committee appointed to prepare an answer to the address were Venable, Griswold, Freeman, Kittera, and Rutledge. The answer they reported was referred to

<sup>1</sup> May 22d.

the Committee of the Whole, and there became the subject of a very protracted and animated discussion.

Mr. Nicholas, of Virginia, proposed an amendment which was, in substance, that the dismission of the American Minister by the French government had excited their warmest sensibility ; and if it were followed by similar measures, it would put an end to all friendly relations between the two countries ; but they flattered themselves that France intended merely to suspend the negotiation, and to afford an occasion for those extraordinary agencies “in common use to adjust great national difficulties.” They had therefore heard, with great satisfaction, that there would be a renewed negotiation ; and they expected that a mutual spirit of conciliation, and a disposition on the part of the United States to place France on the footing of other nations, by removing the inequalities which have arisen in the execution of the several treaties made by the United States, would produce an accommodation that would be compatible with the engagements, rights, duties, and honor of the United States.

They could not believe that France had any serious expectation of withdrawing the support of the American people from their constitutional agents ; and they declare that such an attempt would incur their highest indignation ; that they would repel every unjust demand by foreign nations, and would regard the humiliation of their government as the greatest personal disgrace.

In a speech in which Mr. Nicholas supported his amendment, he took occasion to disclaim all undue attachment to France with which he had been charged. He had at first, he said, espoused the cause of France, because her cause was our own, and since he saw with concern and alarm that many individuals in that portion

of the United States were unfriendly to republican government.

This amendment was opposed by Mr. Smith, of South Carolina, Messrs. Griswold, Otis, Sitgreaves, and with distinguished ability by Mr. Harper; and it was supported by Messrs. Giles, Gallatin, Freeman, Baldwin, Swanwick, Livingston, and partially by Mr. Dayton.

The discussion continued in the Committee of the Whole for ten days, during which Mr. Nicholas's amendment having been rejected by fifty-two votes to forty-eight, Mr. Dayton proposed another which declared that a disposition to place France on the same footing as other countries would probably produce an accommodation between the two countries; which was carried by fifty-two votes to forty-seven.

After further discussion, and an amendment which expressed the expectation that France would compensate the United States for her spoliations on their commerce and other injuries, which was carried by seventy-eight votes to twenty-one, the answer to the speech was finally adopted by sixty-two votes to thirty-six.

That blind and culpable devotion to party with which free countries may so often be reproached, was strikingly exhibited by both sides on this occasion. By the Republicans, who voted in the negative on the clause which looked for compensation for the lawless aggressions of the French; and by the Federalists, who voted against putting the belligerent rights of France on the same footing as those of England respecting neutral commerce and contraband, though this claim on the part of France was deemed so just and reasonable in itself by the administration, and even by Wolcott, as well as Hamilton,<sup>1</sup> that in the negotiation then proposed, the American

<sup>1</sup> I. Gibbs, pp. 490, 511, 516.

Minister was to be instructed to concede these claims to France by remoulding her treaties with the United States. Both parties must share the blame of spending a fortnight in preparing a mere formal answer to the President's opening speech, when nothing was decided by the victory, not even the actual relative strength of the parties, considering that the more scrupulous members of both sides would, on the questions discussed, sometimes vote with one party, and sometimes with the other.

While this inconsequential contest was going on, the President, in execution of what had now become a favorite purpose, appointed Charles Cotesworth Pinckney, Francis Dana of Massachusetts, and John Marshall of Virginia, Ministers to France; and on Judge Dana's declining to accept, he appointed Elbridge Gerry of Massachusetts, very much against the wishes of Pickering and Wolcott, as Gerry had always been ranked with the Anti-federalists. He was, however, personally friendly to Mr. Adams, and being one of the Electors of President, had given his vote to Adams. He had thought proper to justify himself to Mr. Jefferson for this dereliction to his party, on the ground of Mr. Adams's seniority.

It would seem that this second attempt at negotiation did not prevent the preparation for war, as one of the first measures of this character — a bill from the Senate prohibiting the exportation of arms and ammunition, and encouraging their importation, amidst their difficulties with France — passed the House by seventy-four votes to eight.

The relations of Spain deserve a passing notice. A message was soon afterwards received by Congress from the President concerning the boundary line between the Floridas and the territory of the United States.

By the third article of the treaty with Spain, that line was to be run by Commissioners appointed by each nation; and Andrew Ellicott, the American Commissioner, proceeded to Natchez, the place appointed for the meeting of the two Commissioners. The Baron de Carondelet had been appointed on the part of Spain, but he being otherwise employed, the duty devolved on Governor Gayoso. After various delays and evasions, the Spanish officers refused to execute the treaty except on the following conditions:—First. It should be previously settled by the two nations whether, when the Spanish garrisons were withdrawn from the forts which should prove to be within the limits of the United States, the works were to be demolished. Secondly. That the real property of the inhabitants should be secured to them. Thirdly. That the Spanish officers should be assured that the neighboring Indians would be pacific.

To remove the first difficulty, the President says he had decided to submit it to the discretion of the Spanish officers to leave the works standing or to demolish them. To remove the second difficulty, assurances were given that the settlers on the lands should not be disturbed in their possessions by the troops of the United States, and legal provision in their favor was also recommended to Congress. The third point was not considered to afford any cause for delay; and as the country was particularly valuable to the United States—it now containing nearly four thousand inhabitants—the establishment of a territorial government at Natchez, similar to that on the north-west of the Ohio, was recommended.

The fears of such portions of the inhabitants as were attached to the Spanish government seem to have been heightened, if not caused by the Spanish officers themselves, who, with an instinctive sagacity of self-preserva-

tion, always appeared to dread the contact or approach of the Anglo-Saxon race on the American continent.

In answer to a resolution of the House of Representatives,<sup>1</sup> requesting of the Executive a report of the depredations committed on the commerce of the United States since the first of October, 1796, the President sent to the House<sup>2</sup> a report prepared by the Secretary of State, of the several American vessels which had been captured by the armed ships of Spain, Great Britain, and France.

Only one capture by a Spanish cruiser is mentioned; but the Secretary says there had probably been many. In one of the ports of Spain, the American Consul writes: "there are almost daily arrivals of American vessels which have been captured by French and Spanish privateers."

Captures by British cruisers had not been numerous.

After a notice of the several French decrees relative to neutral ships and commerce, Mr. Pickering gives a detailed list of the American vessels captured by French cruisers, with the circumstances attending them, as well as their cargoes, the ports they were from, whither they were carried, and how disposed of. In many of these cases, the injury was aggravated by indignity and inhumanity to the crews.

Some days afterwards,<sup>3</sup> another message was received from the President, in which he remarks, "that the whole of the intelligence which has been for some time past received from abroad, the correspondence between this government and the Ministers of the belligerent powers residing here, and the advices from the officers of the United States, civil and military, upon the frontiers, all conspire to show, in a very strong light, the critical situation of our country." He therefore sends to

<sup>1</sup> June 10th.

<sup>2</sup> June 21st.

<sup>3</sup> July 3d.

Congress reports from the Secretaries of State and of War, with the accompanying documents, that they might take such measures as they deemed proper. The papers were confidential until Congress chose to publish them.

It appears by Mr. Pickering's report,<sup>1</sup> that a new motive had been assigned by Baron Carondelet and Governor Gayoso for retaining possession of the posts of Natchez and the Walnut Hills, which was, *to guard against an attack by the British from Canada*. This information having been derived from the Chevalier de Yrujo, the Spanish Minister, it gave rise to a correspondence between the Secretary, the Spanish Minister and Mr. Liston, the British Minister. Mr. Pickering remarks, that Yrujo had offered no fact or reason to show that such an attack was meditated, and that Mr. Liston positively denied it.

It further appeared that divers complaints against Mr. Ellicott, the American Commissioner, by Baron Carondelet, had been alleged as the cause of a misunderstanding between him and Governor Gayoso, and of the delay in running the boundary line. These complaints the Secretary shows to have been unfounded in fact, and were mere pretexts for their failure to execute the treaty; and that there was good reason for believing that the Spanish officers had exerted their influence over the Indians to bring about a rupture with the United States.

It is further stated by the Secretary that one or more of the citizens of the United States had endeavored to detach the Southern Indians from the interests of the United States, and to destroy the influence of their public agents over these tribes; for proof of which he refers to the report of the Secretary of War.

<sup>1</sup> III. State Papers, page 300.

These facts are clearly sustained by the documents appended to the Secretary's report.

Among the papers reported by the Secretary of War is a letter from William Blount, one of the Senators from Tennessee, to James Carey, interpreter to the Cherokee nation, dated the twenty-first of April, 1797, in which he speaks of a plan (of invading the neighboring Spanish territory) that had been mentioned to the British Minister the preceding winter, which would probably be attempted this fall, and of which he expected to be the head on the part of the British. He is cautioned to conceal it from the Indian agents, and to keep up his (Blount's) consequence with the Creeks and Cherokees, with other advice indicating a secret and unlawful enterprise. He concludes with telling Carey, after he had read that letter three times, to burn it.

The Spanish Minister, at the time he informed Mr. Pickering of the threatened expedition from Canada,<sup>1</sup> also informed him that the English had proposed to General Clarke, of Georgia, to make an attack on Florida; on which Mr. Pickering wrote to Charles Jackson, the attorney for the United States in Georgia, to investigate the subject. This was accordingly done, but Jackson could hear nothing respecting this scheme. He did not believe the story, and imputed it to Clarke's known antipathies to the English.

Pickering then made a second inquiry<sup>2</sup> of the British Minister, whether he knew of any other project of an expedition against the dominions of Spain adjacent to the United States. He apologised for the inquiry, and stated that it was not the result of *suspicion*, but of *information* (in which his name is introduced) respecting such a project.

<sup>1</sup> April 21st.

<sup>2</sup> July 1st.

Liston replies that, in the course of the preceding winter, some person had proposed to him an attack on Florida and other Spanish possessions adjoining the United States, to be undertaken by a British force sent by sea, seconded by a number of men resident in the United States, who would join the King's standard, if erected on Spanish territory.

He refused to encourage the scheme on two grounds, that it tended to a violation of the neutrality of the United States, and because of the inhumanity of calling in the Indians, as had been hinted at. He, however, communicated the facts to his government, who also discountenanced the project, for the same reasons that he had given. He further states his suspicion that the persons who proposed the plan to him were employed by the enemies of Great Britain; yet as he might be mistaken, he would not further disclose their secrets, especially as, however loose their principles may have been as to the law of nations, they never expressed any sentiments hostile to the United States.

This message, with the documents, were referred to a committee, who made a report a few days afterwards; when it was resolved that several members of the House should be examined on oath at the bar of the House, to prove the hand-writing of William Blount in the letter purporting to have been written by him to Carey — all of whom declared their belief that the letter was genuine.

The next day the Speaker communicated to the House a letter from Thomas Blount, a member from North Carolina, asking to be excused from voting in the case of his brother, William Blount, which request was granted.

The House then adopted the resolution reported by the committee, "that William Blount, a Senator of the

United States for the State of Tennessee, be impeached of high crimes and misdemeanor; and Mr. Sitgreaves go to the Senate, and there impeach William Blount, and that the House would, in due time, exhibit articles against him."

It was also ordered that Mr. Sitgreaves demand that the said William Blount be sequestered from his seat in the Senate, and that the Senate take orders for his appearance to answer the impeachment.

In consequence of this application, the Senate required Blount to give security for his appearance to the amount of twenty thousand dollars for himself, and two securities in fifteen thousand dollars each, and expelled him by an unanimous vote, with the exception of Mr. Tazewell from Virginia. He was then delivered up by his sureties, but he was afterwards permitted to enter into a new recognizance for his appearance, of one thousand dollars for himself, and two sureties of five hundred dollars each.

As he fortunately belonged to the anti-Federal or Republican party, these overtures to the British government could not implicate the administration, or its adherents, as would probably have been charged, if he had been one of that party.

The measures adopted by Congress at this session for the national defence, were as follows :

Eighty thousand militia, duly apportioned among the States, were to be organized by their respective Executives, and to be held in readiness to march at a moment's warning.

Citizens of the United States were prohibited from privateering against the United States, or States in amity with them, on pain of fine and imprisonment.

The States indebted to the United States were author-

ized to expend, under the direction of the President, the sums they severally owed in fortifying the ports and harbors. A further appropriation of one hundred and fifteen thousand dollars was made for the same object.

The equipment of the three frigates was authorised, and an additional number of revenue cutters for the defence of the coast. But the proposition to prohibit the Executive from using the frigates as convoys was supported by forty-six members to fifty; the alleged ground of opposition being that such a use of them would lead to a direct collision with France, in the conflicting views then entertained of neutral rights.

To meet the additional expenses which would be incurred by these measures of defence, Congress imposed duties on certain stamps,<sup>1</sup> an additional duty of eight cents a bushel on salt, and authorised a loan of eight hundred thousand dollars.

All these measures were opposed by a greater or less number of the Republican party; but as their opponents appeared in the character of asserting the rights and dignity of the nation against foreign insult, they evidently gained ground with the people.

During the session of Congress Mr. Monroe returned from France, and every where met with a very cordial reception from the Republican party. A public dinner was given him in Philadelphia, at which Mr. Jefferson and other prominent men of his party were present. Before he left Philadelphia, he addressed a letter to Mr. Pickering, inquiring of him the causes of his recall; but Pickering, referring to the constitutional powers of the

<sup>1</sup> It deserves to be mentioned, as indicative of Mr. Adams's character, that this tax "furnished a cause of jealousy to the President, who, for some reason, supposed it to exalt the powers of the treasury at his expense." — I. Gibbs's Fed. Adm., page 555.

President, refused a more special answer to his inquiries. Some other letters passed between them; and Monroe, by way of justifying himself before the nation, and of recommending himself to his party, published a detailed account of his mission, and of his diplomatic correspondence both with the French government, and that of his own country. His book afforded, at the time, quite as much materials of attack to his political opponents as of defence to his friends; and now, when the passions of the day have long ceased, it must be admitted that, in the extreme liberality of his conduct towards the French government, he exceeded his instructions, and that his diplomatic course generally was more indicative of honesty of purpose than it was of a sound judgment of men and things in France.

On the nineteenth of July, Congress terminated a session not more remarkable for its brevity than the bitterness of its party altercations, to meet again on the first of November.

The spirit of party had indeed been increasing in violence from the time of the British treaty; and Mr. Jefferson bears testimony that it had never before so alienated men's minds from each other; because most of the members of both factions suspected their adversaries of a devotion to the interests of a foreign country, either England or France, which was incompatible with their duty to their own: though, in truth, most party men honestly believed that, in espousing the cause of France or of England, as the case might be, they were really promoting some great interest of their own country—and were at least advancing the cause of liberty, order, religion, morals, or human happiness.

The injurious suspicions thus entertained of each other, unfounded as cool and unprejudiced observers

must now admit them to have been, were entertained by the more intelligent as well as the vulgar, and gave a fierceness and acrimony to the contests of party which had not been felt since those of the Whigs and Tories in the Revolution. Yet the mischiefs, if not the injustice, of these foreign attachments were even then distinctly seen by a few discerning minds. Thus Washington, writing to a friend, expressed his confidence that the dangers which then threatened the country would be dispelled, if the people would advocate their own cause; "that is, if, instead of being Frenchmen or Englishmen in politics, they would be Americans, indignant at every attempt of either, or any other power, to establish an influence in our councils, or presume to sow the seeds of discord or disunion among us."<sup>1</sup>

Similar sentiments were expressed by Mr. Jefferson, at the same time.<sup>2</sup> He writes to Mr. Gerry: "I do sincerely wish, with you, that we could take a stand on a ground perfectly neutral and independent towards all nations. It has been my constant object through my public life; and with respect to the English and French, particularly, I have too often expressed to the former my wishes, and made to them propositions verbally and in writing, officially and privately, to official and private characters, for them to doubt of my views, if they would be content with equality."<sup>3</sup> And again, in another letter<sup>4</sup> to the same gentleman: "Our countrymen have divided themselves by such strong affections to the French and the English, that nothing will secure us internally but a divorce from both nations; and this must be the object of every real American, and its attainment is practica-

<sup>1</sup> II. Sparks's Washington, page 200.

<sup>2</sup> May 13th, 1797.

<sup>3</sup> III. Jefferson's Correspondence, page 350.

<sup>4</sup> June 21st, 1797.

ble, without much self-denial. But for this, peace is necessary."<sup>1</sup>

Among the evidences of the bitterness, injustice and credulity of party spirit at this era, we may mention the charge insinuated on the floor of Congress against Mr. Monroe, of being bribed by France; that subsequently brought against Mr. Jefferson, of sending Dr. Logan on a special mission to France; then, the attempt to discover and expose the secret sentiments of General Washington by the fictitious letter of John Langhorne, a pretended old soldier and Federalist; and lastly, the accusation against Alexander Hamilton, of using the public money while he was Secretary of the Treasury, contrary to law, for the purposes of speculation in the public securities. As this charge concerns the conduct and character of several public men, and excited a lively interest at the time, it deserves a more particular notice.

It first made its appearance in a work called "The History of the United States for 1796," written by Callendar, a Scotchman, and published in the following year. It appeared, from the investigation to which the charge subsequently gave rise, that some four or five years before, Hamilton having been seduced into an illicit intimacy with a Mrs. Reynolds, had paid money to her husband, in satisfaction of the injury done him; but he becoming more exacting in his demands, and Hamilton having good reason to believe that Reynolds and his wife had combined to swindle him, resisted his further applications for money, and broke off the connection. Reynolds seems to have then formed the vindictive purpose of charging Hamilton with using the public money, in which he was aided by one Clingman, who, like himself, was then under a prosecution for sub-

<sup>1</sup> III. Jefferson's Correspondence, page 351.

ornation of perjury. Clingman made the communication to Muhlenburg, Speaker of the House, whose favor and protection he then sought, and Muhlenburg made it known to Monroe and Venable, both members of Congress from Virginia.

Muhlenburg, Monroe, and Venable having then seen Reynolds and his wife, and finding their statements to accord with Clingman's, they called upon Hamilton, and communicated to him the information thus obtained. He frankly admitted the facts, as above stated, and proved the real character of his connection with the Reynolds's by letters from them both. All the three gentlemen professed themselves satisfied that the accusation was groundless, and they promised to withhold the papers which had been produced by his accusers, lest they should be furnished with the means of renewing their false charges.

About a fortnight later, Clingman informed Monroe that Mrs. Reynolds denied the statements made by Hamilton, which she said was a feint to conceal his official delinquency, and that he, Clingman, believed her to be innocent. Monroe made a memorandum of this conversation, which, without communicating the fact to Hamilton, he left with a friend when he went to France: but this letter, by some means not known, came into the hands of Callender, a scurrilous party writer, and was by him published, with comments, to prove Hamilton's corruption. Monroe always denied that he had any agency in communicating it to Callender.

On the appearance of Callender's book, Hamilton, thinking he had been unfairly dealt with, asked of the three members an explanation of what he calls a "dishonorable infidelity" somewhere, though he acquits them of all agency in the publication, and especially

seeks such explanation of the memorandum of Clingman's testimony. Muhlenburg and Venable readily acquit themselves, as they had no knowledge of its publication, and had taken no copies of the papers. Mr. Monroe, unwilling either to express an unqualified confidence in Hamilton's innocence, after preparing and preserving a paper which assailed it, or to intimate a doubt about his integrity, which had been so clearly proved, against the accusation of disreputable witnesses, contented himself with saying that he had given no opinion as to the contents of the paper, but reserved to himself the right of forming one after he had seen Hamilton's defence.

This course, which Hamilton considered as giving countenance to the slanders of Clingman, he so warmly resented as to charge Monroe with being actuated by motives towards him that were "malignant and dishonorable." In the remainder of the correspondence, each party adhered to the ground he had previously taken, and each, after charging the other with wishing to make the dispute between them a personal affair, professed himself ready to meet such an issue.

Hamilton, thus accused of an offence which, of all others, he detested, and not meeting with that aid in his vindication from Monroe which circumstances made necessary, and which he thought he had a right to expect, determined to throw himself on the generosity of his countrymen, and to defend his integrity as a public officer by confessing his infidelity as a husband.

The hard necessity to which the Federalists thought their favorite champion had been thus ungenerously subjected, called forth their liveliest sympathy for him, and resentment towards his adversary. Nor was there any act of Mr. Monroe's long and varied public life

which so injured him with his opponents, or which his friends found so much difficulty in defending as this: nor one which, it may be added, was more at variance with the general tenor of his conduct and character.

The Republican party, after exulting a while at the public penance which their most dreaded political antagonist had imposed on himself, could but admire the courage and decision which had prompted it; and, in no long time, both parties concurred in withdrawing his self-accusing defence from circulation, and thus, as far as practicable, in throwing the veil of oblivion over the errors both of Hamilton and Monroe.

In the month of August, Philadelphia was visited by the yellow fever, and its ravages seemed at first to make it proper that Congress should be convened by the President at some other place; but the disease had so abated before it was required to make a decision, that the removal was not deemed necessary.

The American public awaited, in a state of anxious suspense, intelligence from their envoys to France; and, in the meanwhile, both parties industriously prepared to operate on public sentiment in their favor.

Congress met, according to adjournment, on the thirteenth of November, when the President, in his opening speech, informed them that he could not congratulate them on the restoration of security to American property at sea, among the other numerous national blessings; that the envoys to France had reached that country; and were on their way to Paris in September. While he had omitted nothing likely to effect an equitable and honorable peace, he suggests that nothing was so likely to contribute to its attainment as energy and unanimity on the part of the United States.

He dwells on the importance of commerce, which we were therefore bound by every consideration to protect.

The boundary line between this country and the Spanish possessions had not yet even been commenced. He trusts, however, that the objections made by Spain have been removed. Foreign agents have endeavored to alienate the affections of neighboring Indians, and a law to punish such indefensible practices is recommended.

The Commissioners under the fifth article of the late British treaty have not yet ascertained the real river St. Croix mentioned in the treaty of peace; but having ordered surveys of both the rivers claimed to be the St. Croix, they will meet again in June next. The proceedings of other boards of Commissioners under that treaty are also noticed; as are also those of the Commissioners appointed under the Spanish treaty relative to illegal captures of American vessels, together with those of the Board respecting captures of British vessels within the jurisdiction of the United States.

In consequence of the numerous captures of American vessels by French cruisers, large sums have been disbursed by American Consuls, for the reimbursement of which they look to the United States. These officers have been deceived by foreign vessels sailing under the American flag by means of forged papers, since Consuls have no authority to demand an inspection of the registers and sea letters.

He concludes by remarking that, while loans are sometimes necessary, to meet the extraordinary expenses required for the public defence, as much as is practicable should be raised by taxes in preference to loans.

The President's speech met with courteous responses from both Houses. That of the Senate passed without

opposition ; that of the House was objected to by two members, Lyon and Venable, on the general ground that the practice of answering such speeches was a bad one, by giving occasion to long, irritating, and unprofitable debates. The objections were, however, overruled by fifty-seven votes to twenty, and the answer reported by the committee was adopted, after some slight verbal amendment, without opposition.

The first part of the session passed away without any measure deserving especial notice ; but on the twenty-third of January, 1798, the President transmitted to both Houses a report from the Secretary of State concerning the national affairs on the Mississippi river and its neighborhood.

The Secretary details the various delays of the Spanish authorities in running the boundary line, as required by treaty, and the reasons assigned by them for their tardiness. He considered their pretexts to be at once frivolous in character, as well as unfounded in fact, and that the real reason was developed by the proclamation of the Baron de Carondelet, of the thirty-first of May, which was the expectation of an immediate rupture between France, the intimate ally of Spain, and the United States. This assertion he endeavors to support by the trifling charges and groundless suspicions of the Spanish authorities against Mr. Ellicott, the American Commissioner.

The Secretary's report having been published in the public journals, the Spanish Minister, Chevalier Yrujo, on the eleventh of July, addressed to Mr. Pickering a long letter in vindication of the Spanish officers and himself.

He insists that, contrary to the assertions of Mr. Pickering, he had previously informed the Secretary that an

expedition against Florida was preparing by the British; and that even if he had not given this notice, the American government owed it to itself to endeavor to prevent such an enterprise. He taunts the Secretary for assuming that the British Minister would be as ingenuous in answering his inquiries, as the Secretary had been in making them. He animadverts freely on Pickering's communicating to the British Minister the contents of Yrujo's letters; and if the Secretary believed this was the best way of preventing the violation of his country's neutrality, he asks why it had been delayed for two months?

He complains that the Secretary had not communicated his, Yrujo's, remonstrances to the President, and says he must have had some powerful motive for his silence.

After some criticisms on minor points, he insists that Ellicott did intend to get possession of the forts by surprise. He justifies the delay of his government in delivering up those posts, on the principle of self-defence. Mr. Blount's letter, and the conspiracy lately detected, proved the necessity of that delay; and with his knowledge of the facts, the Secretary ought to have been one of the last to stigmatize the motives of Spain with the epithet of "*pretexts.*" He adds, "Nor do your ill-founded insinuations stop here. Sentiments and expressions still more violent flow from that same hasty pen." He refers then to a letter from Winthrop Sergeant to the Secretary, on which the latter had relied to prove the influence exercised by the Spanish authorities over the Indians, which facts the Minister endeavors to disprove. He grounds his want of faith in Mr. Liston's assurances on the known disregard to neutral rights shown by Great Britain, of which he mentions several

examples. He charges the Secretary with gross inconsistency in ascribing the stirring up of the Indians to Spanish officers, and then to citizens of the United States. He recapitulates his complaints under eleven different heads.<sup>1</sup> The whole is in a strain of disrespectful, almost contemptuous, sarcasm and irony, altogether unusual in diplomatic intercourse among equals.

Mr. Pickering replied<sup>2</sup> in a far more temperate tone than was to have been expected from his character, or than the Spanish Minister's letter would have warranted. It was a cool but elaborate defence of his own course, as well as that of his government.

A further correspondence between the Minister and Mr. Pickering took place respecting the execution of the treaty and the navigation of the Mississippi by the British. Their right to this navigation Yrujo denied, on the principles of international law; and the concession by the United States he regarded as affording just cause of complaint to Spain.

Mr. Pickering replied<sup>3</sup> that the navigation of the Mississippi was not *conceded* to the British; the treaty of 1794 merely stipulating that the United States would not obstruct the navigation by British subjects.

There now occurred for the first time on the floor of Congress one of those scenes of disorder and indecorum at which the nation has so frequently since been scandalized and mortified. In the course of some very free banter between Mr. Lyon, a member from Vermont, and Mr. Griswold of Connecticut, the latter alluded to a rumor in which Lyon was said to have been punished for cowardice during the War of the Revolution; which attack Lyon resented by spitting in Griswold's face. The

<sup>1</sup> III. Wait's State Papers, pp. 375-386.

<sup>2</sup> August 8th.      <sup>3</sup> January 20th, 1798.

parties were outside the bar, but the House was in session, though, as it was then balloting for the managers of the impeachment of Blount, there was that relaxation of order which commonly takes place on such occasions, and the Speaker had left the chair.

Mr. Sewell of Massachusetts moved for Lyon's expulsion, which motion was referred to the committee of privileges. The committee reported a resolution for the expulsion. It was, however, discussed and decided as a mere party question—fifty-two Federalists voting for it, and forty-four of their opponents against it, some on the ground that the session of the House was, at the time of the disorder, suspended, and at all events, that Lyon, as he alleged in his letter to the House, so believed. The majority against him being less than the two-thirds required by the Constitution, he retained his seat. Precisely the same vote had been given on the motion to substitute a reprimand for expulsion, which had been made by the Republican party.

The first day that Lyon afterwards appeared in the House, in the morning, as soon as the chaplain had finished his prayer, but before the House was called to order, Griswold with a cane attacked Lyon, then reading in his seat. A personal rencontre ensued, and continued until some of Lyon's friends came to his relief. Lyon soon after renewed the contest, which was, however, terminated by the Speaker's calling the House to order.

A motion to expel both Griswold and Lyon was then referred to the committee of privileges, which reported against it, and the large majority of seventy-three votes to twenty-one confirmed their report. Nor could a majority be obtained even for a vote of censure.

Had Lyon been promptly punished for the manner in

which he had shown his resentment, it can scarcely be doubted that the House would have been sustained by the great body of the nation, and that the many similar scenes in Congress which have since disgusted every man who had a proper sense of decency, or of what was due to the national dignity and respectability, would have been prevented.

On the fifth of March the President communicated to Congress that he had received despatches from the Envoys in Paris; and while their first letters are deciphered, he loses no time in communicating the last letter, by reason of its pressing importance to the mercantile community.

The Envoys state that one branch of the French Legislature had unanimously passed a decree, which declared the neutral character of a vessel to be determined by her cargo; and consequently, that every vessel laden in whole or in part with English merchandise was declared lawful prize. Second. That every foreign vessel which had, during her voyage, entered an English port, should not enter France, except in case of distress. The Envoys add that there was no hope of their being received by the French government, or that the objects of their mission would be accomplished.

A fortnight afterwards,<sup>1</sup> the President informed Congress that the other despatches from the Envoys, previously mentioned by him, had been maturely considered; and that, notwithstanding their efforts to adjust the differences between the two nations, there was no ground to expect they would be successful.

He advert's to the moderation of the United States, in their anxiety to preserve peace. He therefore earnestly reiterates his recommendations to adopt the measures

<sup>1</sup> March 19th, 1798.

necessary for the protection of the merchants and seamen of the United States, to provide the means of military equipment, as well as a sufficient revenue.

He adds, that the instructions which had been previously given to collectors to restrain private vessels from arming, had been withdrawn, except where the purpose was suspected to be illegal; and he urges Congress to a zeal and vigor in defence of their rights proportioned to the danger which threatens them.

The intelligence thus communicated filled with the liveliest indignation a small majority in Congress, and a large majority of the American people; and several measures were immediately brought forward in Congress in conformity with the President's recommendation. These were: the bill making a further appropriation for equipping the three frigates; and other bills for the increase of the naval armament, for the purchase of arms and ammunition, and for the defence of the country generally, to be hereafter more particularly noticed.

The Republican party, seeing that the tide of public sentiment was setting strong for a war with France, or for measures which would certainly lead to it, endeavored to stem the force of the current; and, with that view, Mr. Sprigg of Maryland proposed three resolutions: First, that it was not expedient to go to war with the French republic; second, nor to arm merchant vessels; and third, that the sea-coast ought to be fortified: which resolutions were referred to the Committee of the Whole on the state of the Union.

These resolutions were supported by the mover, Messrs. Baldwin, Giles, Nichols, and Gallatin; and were opposed by Messrs. Otis, Harper, Brooks, Sewell, and Thomas Pinckney: but the debate was arrested by the motion to call upon the President to communicate the

despatches from the Envoys,<sup>1</sup> to which, on the motion of Mr. Livingston, of New York,<sup>2</sup> the instructions to the Envoys were added; and the next day, both the despatches and instructions were transmitted to Congress, with the exception of the names of Hottinguer, Bellamy, and Hauteval, which, in consequence of the promise of secrecy given by the Envoys, were designated by Mr. Pinckney as X, Y, and Z. The publication of these papers was left by the President entirely to the discretion of Congress.

Two days subsequently, a motion, in the House of Representatives, to publish them, was rejected by the large majority of seventy-five votes to twenty-four; but on the same day, the Senate, more justly estimating their popular effect, voted for their entire publication.

It appeared, from the instructions, that every ground of controversy was fully explained and provided for. They proposed to make the belligerent rights of France the same as those of England by Jay's treaty as to neutral rights, and the contraband of war. At the same time, cautions were given against any stipulations which might put to hazard the neutrality of the United States, like the claim of guarantee in the treaty of 1778. It was impossible to doubt that the instructions had been dictated by a sincere desire to adjust all existing differences with France. The manner in which these pacific overtures had been rejected excited universal astonishment, and seemed to justify the unfavorable sentiments which the Federal party had long held towards the present rulers of France.

The American Envoys stated that after they had a short interview with the Minister of Foreign Affairs,<sup>3</sup>

<sup>1</sup> Annals of Congress for 1798, page 1357.

<sup>2</sup> Ibid. page 1359.

<sup>3</sup> October 14th.

and received cards of hospitality, they were verbally informed, through the Secretary of the Minister, in answer to their application for an audience, that the Directory were greatly exasperated at some parts of the President's late opening speech to Congress, and would require an explanation from the American government: that the Envoys would not probably have a public audience of the Directory until the negotiations were finished, but that persons would probably be appointed to treat with the Envoys, and they would report to him, the Secretary, who would have charge of the negotiation.

Some days later,<sup>1</sup> General Pinckney was informed that a Mr. Hottinguer, who was in Paris, was a gentleman of respectability, and that the General might place great reliance on him. This individual called on General Pinckney the same day, and informed him, in a whisper, that he had a message to the General from M. Talleyrand, when he was at leisure. They then withdrew into another room, where he said that M. Talleyrand, being very anxious to bring about a reconciliation between the United States and France, was ready to suggest, confidentially, a plan by which he thought it could be effected. On General Pinckney expressing a desire to hear it, he said that the Directory, two members especially, were irritated at some part of the President's speech to Congress, which the Minister wished to be softened. This was a necessary preliminary, and that a sum of money was required for the pocket of the Directory, which would be at the disposal of Talleyrand; and that a loan would also be insisted on. If these measures were acceded to, M. Talleyrand had no doubt that all differences with France might be accommodated.

Though the offensive passages were not pointed out,

<sup>1</sup> October 18th.

nor the amount of the loan stated, the douceur for the pocket was one million two hundred thousand livres, about two hundred and twenty thousand dollars. General Pinckney replied that he could not consider the proposition until he had consulted with his colleagues. On such consultation it was agreed that it should be proposed to Mons. Hottinguer, to make his propositions to all the Envoys, to which he consented. He then said that his communications were not immediately with Talleyrand, but through another person in whom he had great confidence, who proved to be a Mons. Bellamy. He left a note in writing, as the Envoys had requested. It was to this effect:

That a person in the confidence of the Directory proposed to use his influence to restore a good understanding between the two nations. It was desired that a softening tone should be given to a part of the President's speech; that if certain individuals were not satisfied, "they might give way to all their resentments." The payments awarded by the Commissioners were to be paid by the American government itself; and it was desired that the funds which, by this means, should again enter into the American trade, should be applied in new supplies for the French colonies. A loan was further required on the part of the French government; and to prevent its giving offence to Great Britain, the loan was to be concealed by stipulations that the United States consented to advance the money for the payment of the debts contracted by agents of the French government with citizens of the United States. There should also be first taken from this loan certain sums for the purpose of making the customary distributions in diplomatic affairs. The person of note alluded to was Mons. Talleyrand. The amount of the loan could not be ascer-

tained precisely, but was understood to be according to our ability to pay.

These proposals, which were as insulting to those to whom they were addressed as they were infamous in those who made them, were subsequently repeated in various forms by Hottinguer and Bellamy; and the object that they chiefly, if not solely, had in view, was money. Their constant cry, to use their own words, was, "*il faut de l'argent, il faut beaucoup d'argent;*" and mingled with this meanness were boasts of the *force, the honor, and jealous republican pride* of France.

When General Pinckney asked for an explanation as to the loan, the agents said there were thirty-two millions of florins of Dutch inscriptions, then worth ten shillings in the pound (six millions three hundred and twenty thousand dollars), which might be assigned to us at twenty shillings in the pound (twelve millions six hundred and forty thousand dollars); and he said that, after a peace, the Dutch government would repay the money, so that we should ultimately lose nothing, and the only effect of the measure would be an advance to France of thirty-two millions of francs on the credit of the government of Holland.

Policy strongly recommended to the Envoys to suppress the indignation which these degrading proposals were calculated to excite, and they accordingly contented themselves with replying that these demands exceeded their powers, and proposed that one of their number should be the bearer of them to the American government, provided the Directory would, in the meanwhile, suspend all further captures of American vessels; and where sales had been made of captured property, and the money had not yet been paid, that payment should be deferred until the preliminary questions were dis-

cussed and decided. To this the agent would not assent; and he remarked that the money part of the proposition did not come from the Directory, nor even from the Minister, but was merely a suggestion from himself, of what we were to propose, "in order to avoid the painful acknowledgment which the Directory had determined to demand of us."

In the course of these conversations, one of the informal agents urged that we paid money to obtain peace of the Algerines and of the Indians, and that we might as well pay France for peace. To this the Envoys replied that when a treaty was made with those nations, it was understood that money was to form its basis; but that, in treating with France, our government had supposed that such a proposition as he suggested, if made by us, would give mortal offence. He asked if our government did not know that nothing was to be obtained there without money; and added, that there was not an American in Paris who could not have given that information. He stated that Hamburgh and other European States were obliged to buy a peace. He dwelt on the power of France, which he said nothing could resist. He then urged that France had lent us money during our war of the Revolution, and only asked the same proof of friendship from us.

The Envoys pointed out the difference between the money advanced by France, to serve her own purposes as well as ours, and money required of the United States that could serve no purposes of theirs whatever, and would, moreover, violate their neutral duties.

In consequence of an overture from M. Talleyrand, through a Mr. Hauteval, Mr. Gerry, urged by his colleagues, called on that Minister. He repeated to Mr. Gerry he thought that, by their offering money he could

prevent the effect of a late decree of the Directory, by which they demanded an explanation of some parts of the President's speech to Congress, and a reparation for other parts. Mr. Gerry replied that the Envoys had powers to adjust all the existing differences between the two nations, but none to make a loan; and again proposed that one of the Envoys should be despatched to the United States with the proposition. M. Talleyrand replied that the matter about the money must be settled directly, without sending to America; and that, if the Envoys would adjust the difficulty respecting the speech, an application could nevertheless go to the United States for a loan.

At a subsequent interview<sup>1</sup> with Hottinguer, he said that if the Envoys would pay, by way of fees, the money demanded for private use, they might remain in Paris until one of them could go to the United States, and satisfy their government on the subject of the loan. This was what Portugal had done. Even then they would not suspend their depredations on American commerce, or stop the money not yet paid to the privateersmen.

These tools of Talleyrand and the Directory left no efforts untried to obtain money from the American Envoys. At one time dilating on the power of France, and the resentment of the Directory; at another, on the immense benefits that would accrue to the United States from her neutral position, and from the downfall of England, which they confidently predicted. But should the meditated invasion of Buonaparte fail, still the immense cost it must occasion to that government would compel it to make peace; and in this event they asked what would be the situation of the United States, if peace were made with England before our differences

<sup>1</sup> October 29th.

with France were accommodated? The fate of Venice might become their own.

One of the Ministers said that perhaps the Envoys believed that, by exposing to their countrymen the unreasonableness of the French demands, they would be united in resisting them; but they ought to know the diplomatic skill of France, and the means she possesses, with the French party in America, of throwing the blame on the Federalists. He professed, all the while, that the propositions he had suggested were to be considered as coming from the Envoys.

At a subsequent interview the same agent, after renewing his former propositions, said that M. Talleyrand was preparing a memorial to be sent to the United States, complaining of the Envoys as being unfriendly to an accommodation with France. The Envoys replied that it would not be easy to convince their countrymen that their statements were untrue; but even if they were certain they would be condemned, "M. Talleyrand might be assured that the fear of censure would not induce them to deserve it."

The Envoys, on the twenty-seventh of November, addressed a very earnest note to the Minister of Foreign Affairs, requesting him to communicate to the Directory that they were anxious to commence the purpose of their mission to France. To this note they received no answer.

Foiled as these shameless men were in their attempts to extort money from the American Envoys, they yet made another attempt. Beaumarchais, in the assumed character of a contractor, had been the secret agent of the French court, or of French courtiers, to afford aid to the United States during the Revolution, for the purpose of concealing the fact from England; and in that charac-

ter he had furnished the State of Virginia with military supplies to a large amount. In a settlement of accounts between him and that State, he claimed a large balance, and had actually brought suit for it against the State in one of her own courts. On this occasion, Mr. Marshall, then a practising lawyer in Virginia, had been one of Beaumarchais's counsel. Bellamy told Mr. Marshall that Beaumarchais had consented, provided his claim could be established, to sacrifice fifty thousand pounds sterling of it, as the private gratification (*douceur*) which had been required of the Envoys, by which that money might be paid without any actual loss to the American government. But this, being considered as a new form of the former offer to take a bribe, was in like manner rejected.

It may be here remarked that M. Beaumarchais might readily consent to give up one-third of a doubtful claim to secure the other two-thirds. On a final decision of his case, the sum found to be due him dwindled down from one hundred and forty-five thousand pounds sterling to some five or six thousand pounds.

The publication of the despatches was ordered by Congress, according to the discretion left with them by the President. Their subsequent despatches, communicated by the President on the fourth of May, and on the fifth and eighteenth of June, will be here stated.

In January,<sup>1</sup> the Envoys addressed a letter to the Minister of the Interior, in which they take a copious and circumstantial view of the relations between the United States and France, from the breaking out of the revolution in France down to the date of the letter, in which they aim at a complete vindication of the course of the American government in all its acts, and as fully

<sup>1</sup> 19th.

state their causes of complaint against the French government.

No answer was returned to this communication, but before the Envoys demanded their passports,<sup>1</sup> they sent their secretary to M. Talleyrand, on the nineteenth of February, to know if he had any communication to make in consequence of the letter of the nineteenth of January; to which he replied that "he had no answer to make, as the Directory had not taken any order on the subject, and when they did, he would inform us of it." But still wishing, before they sent their final letter, to know of M. Talleyrand whether there was no means within their power of accommodating the differences with France on just and reasonable grounds, they asked a personal interview.

This interview was granted, and took place on the second of March. M. Talleyrand then complained of General Washington's last speech to Congress, as well as Mr. Adams's, at the succeeding session; and he even complained of the reserve of the Envoys, they never having called on him unofficially. He said that the Directory must have some proof of a friendly disposition on the part of the United States, before France made a treaty with us; suggested that there could be no difficulty in furnishing such proof; and "alluded very intelligibly to a loan." General Pinckney remarked that a loan had been repeatedly suggested to us, but that we had uniformly answered, "it exceeded our powers." M. Talleyrand replied that being diplomatic agents at so great a distance from their government, and possessed as we were of the public confidence, we must often use our own discretion, and exceed our powers for the public good. He distinguished between a case in which in-

<sup>1</sup> IV. Waits State Papers, page 32.

structions were merely silent, and when an act was positively forbidden: that if a loan had been prohibited, we could not make it. He endeavored to obviate the principal objection to a loan, that it was inconsistent with our neutrality. He gave two answers to this objection: first, the secrecy of France, which might be relied on; second, that means of disguising the loan might be devised. He argued this matter the more pertinaciously, from his having, doubtless, a large personal interest in it—his love of money being, according to Napoleon, equally ardent and unprincipled.

The parties had two subsequent interviews, with the like efforts, on Talleyrand's part, to overcome the scruples of the Envoys, and the like failure of success.

Among other modifications of the proposals to obtain cash, Talleyrand remarked that the Envoys had claims against France for property taken from American citizens, some of which were probably just. He asked whether the Envoys would not give credit for the payment, say two years? They answered that they could do so. He then insisted that, by such an act, funds to which our citizens were entitled could be left in the hands of France, and which she might use in the prosecution of the war. The difference between the funds which the French government already had without our consent, and our voluntary contribution of them, was clearly pointed out. He then proceeded to state the case of our assuming to pay the debts of our own citizens—but this, they said, they were prohibited from doing.

On the eighteenth of March, the Envoys received an answer to their letter of the seventeenth of January, from M. Talleyrand.

He begins with complaining that the memorial of the

Envoy speaks only of the wrongs done to Americans—whereas, those sustained by France, which are numerous, weighty, and the first in order of time, were passed over in silence. Moreover, that all the grievances of which the Envoy complains are the consequences of the previous measures of the United States.

One cause of complaint was, that courts of the United States have taken cognizance of the prizes made by French cruisers: the next complaint was, the seizure of the French corvette Cassius in the port of Philadelphia: third, the arrest of the ex-Governor of Guadaloupe for acts of his administration: fourth, the refusal to carry into execution the consular convention. These causes of complaint were prior to the British treaty, which filled the measure of their grievances.

By way of contrasting the conduct of France with that of the United States, he reminds them that they had been told by their Minister that the United States would not be pressed to execute the defensive clauses of the treaty of alliance. This liberal concession by France was regarded by the United States as an acknowledgment of a right. By that treaty, the neutrality of the United States was made to operate to the benefit of England, and to the injury of France; and hence the French republic was free, on the principle of self-preservation, to avoid those inconveniences by all the means which the law of nature, the law of nations, and prior treaties furnished it. Such are the reasons which have produced the decrees of the Directory, and which are fully justified by the treaty of 1778, which puts France on the footing, in the United States, of the most favored nation.

But the causes of complaint did not terminate with the British treaty. The newspapers have redoubled

their calumnies and invectives against France. The government itself had encouraged this scandal. The President, in his speech of May last to Congress, denounced the Directory. He imputes to the American government a disposition to prolong the misunderstanding, and even to augment it. This fact is undisguised, and persons selected as Envoys to France whose sentiments were known to be unfriendly to France, when quite an opposite course was pursued in the negotiation with England.

He insists upon the disposition of the Directory, notwithstanding all these discouragements, to treat with one of the three Envoys, whose opinions, presumed to be more impartial, promise, in the course of the explanations, more of that reciprocal confidence which is indispensable. He trusts that this overture will meet with no difficulty, as the Envoys are empowered to treat jointly or severally. He hopes the Envoys will soon enable him to inform the Directory of their determination.

In the reply of the Envoys to M. Talleyrand's letter,<sup>1</sup> which appears to have been sent on the third of June, they examine in detail the three grounds of complaint urged by the French Minister: first, the inexecution of the treaties with France; second, the British treaty; third, the conduct of the American government since that treaty, in which the logical talent of Marshall, who wrote the reply, is conspicuous. It seems to be a complete vindication of the American government. They justify the refusal of the United States to sell, in their ports, the prizes made by French cruisers, and aver that it was not a right under the treaty of 1778, as appears by the construction put on it by France herself, in her

<sup>1</sup> It is without any date in the publication of the despatches.

treaty with England in 1786; according to which, if France was neutral while the United States were at war, they could not be permitted to sell their prizes in the ports of France.

The permission to sell them, which had been given before the British treaty, was not a right, but a voluntary favor, and could not be continued without a departure from that neutrality which the United States profess, and for which it had the sanction of France.

As to the separate negotiation with one of the Envoys, no one is authorised to take it solely upon himself, nor are there any two who can propose to withdraw themselves from the duty assigned to them.

The President, on the twenty-first of June, sent a message to Congress, in which he congratulated them on the arrival of General Marshall from France; and he communicates to them a letter from Mr. Gerry, the only one of the Envoys who had not received his *congé*. He presumes Mr. Gerry has received his instructions to consent to no loans, and that, therefore, "the negotiation may be considered at an end." He adds, in conclusion, "I will never send another Minister to France, without assurances that he will be received, respected, and honored, as the representative of a great, free, powerful, and independent nation."

Mr. Gerry says he also had expected his passports,<sup>1</sup> but he was informed that the Directory would not consent to his leaving France; and "to bring on an immediate rupture by adopting this measure, contrary to their wishes, would be, in his mind, unwarrantable."<sup>2</sup> He says that he rejected all overtures to negotiation; and he begs the President to assist in extricating him from the predicament in which he finds himself, of being

<sup>1</sup> April 16th, 1798.

<sup>2</sup> IV. Wait's State Papers, page 136.

in France as a political cypher, by appointing others to supply the place of himself and his colleague.

In his letter to Talleyrand, after his colleagues had received their passports, he tells that Minister that he could "only confer informally and unaccredited on any subject respecting their mission, and communicate to his government the result of such conferences."<sup>1</sup>

It appeared that, in the March preceding, the Secretary of State had written to the Envoys that if, on the receipt of that letter, they had not been received by the French government, or were not in treaty with persons duly authorised by the Directory, they were to demand their passports and return; that if there was a negotiation, a treaty was, in no event, to be purchased with money, either by loan or otherwise, nor any gratuity be given.

Numerous letters subsequently passed between Talleyrand and Gerry; and the substance of their correspondence may be thus stated:

After the American Envoy had distinctly informed M. Talleyrand that he had no authority to carry on a separate negotiation, the latter, with an unblushing assurance of a piece with his previous proposals, inquired the names of those persons who, in the despatches of the Envoys (recently published<sup>2</sup> in the United States) were designated as X, Y, and Z.<sup>3</sup> Mr. Gerry, instead of replying that, supposing the facts stated in the despatches<sup>4</sup> to be true, the names of those persons must be at least

<sup>1</sup> IV. Wait's State Papers, page 140.

<sup>2</sup> June 1st, 1798.

<sup>3</sup> IV. Wait's State Papers, page 176.

<sup>4</sup> The despatches mentioned the times and places when the persons designated as X, Y, and Z were, along with Talleyrand, in the company of the Envoys; and once, at a dinner at Talleyrand's, those persons and Mr. Gerry were his sole guests.

as well known to M. Talleyrand as himself; or that the despatches which suggested the inquiry, furnished the means of answering it; or otherwise resenting the insult implied by the inquiry; countenanced the pretended ignorance by answering that he was not at liberty to give their names; and he added that they had produced no vouchers or credentials from the French government, and that no one of them was attached to the French service. He afterwards gave up their names, though the person applying for them, in answer to his tardy remonstrance, admitted that the names had been "discovered."

Talleyrand affects to speak of this affair of X, Y, and Z as a dark intrigue; and to insist that he was always well-disposed to renew a friendly intercourse with the United States. He perseveringly endeavors to draw Mr. Gerry into a negotiation; but the Envoy adheres to the ground first taken, that he had no powers, but would be the bearer of any proposition from the French government. Talleyrand asserting that the propositions made by Hottinguer and Bellamy were unauthorised, says that they were foreigners, and had already left the territories of France.<sup>1</sup>

<sup>1</sup> When the proofs that the infamous proposals made by Hottinguer and Bellamy were known to Talleyrand are so satisfactory, that none but the most prejudiced or reckless of the Republican party affected to doubt the fact; yet as some did express those doubts, and subsequent party writers, less informed, have renewed the question, the evidence of the fact, direct and circumstantial, may here be stated.

First. Hottinguer and Bellamy were evidently on terms of intimacy with Talleyrand, and held a respectable station in society. It is not to be presumed that they would have made any proposal on behalf of Talleyrand which was not authorised by him, and which could not be expected to escape detection, in their interviews with Talleyrand himself.

Second. On one occasion the proposals were made in the presence of

The publication of these despatches had an effect on the public mind beyond the most sanguine hopes of the administration. To the Federalists it seemed a most triumphant vindication of their known sentiments towards the rulers in France. The leaders of the Republican party felt humbled and mortified. The most that any respectable portion of the Republican party contended for was, that Talleyrand had not the authority of his government for what had been done by his informal agents; and some of the party writers most devoted to France were shameless enough to urge that it would be better to pay France money than to go to war with her, and that there would be no more disgrace in buying peace Talleyrand himself; and even supposing he did not hear them, as he probably did, yet, as he certainly might have heard them, this fact is inconsistent with any purpose of concealment from him by Hottinguer.

Third. But Talleyrand himself spoke of "the money" as distinguished from "the loan" applied for. The first, he said, must be paid without sending to America. For the last, he consented to wait until one of the Envoys should go to the United States to communicate with its government.

Fourth. Hottinguer, after his return to Hamburg, makes a publication, in which he says he had proposed nothing to the American Envoys which had not been authorised by Talleyrand.

Fifth. Talleyrand expressly told the Envoys that they might rely on any statements made by these agents.

Sixth. Col. Trumbull, in his Reminiscences, says that, in an interview he had with Talleyrand at this time, he told him the Envoys must pay the money required of them.

To suppose that persons who were the associates of Talleyrand, and who had no other relation to the American Envoys than as his agents, could have advised them to offer a bribe to Talleyrand, even in his presence, without his sanction, is a supposition so improbable in itself as to have nothing to support it but the character of Talleyrand; but when he was as distinguished for venality as for talents and wit, that ground of doubt is entirely removed; and it rarely happens that transactions of this base character, conducted by cunning men, can be established by such satisfactory evidence.

of France than of Algiers. The great mass of the Republicans, as well as Federalists, of the nation, with whom the success of their party is of far less interest than the rights and interests of their country, were filled with lively indignation, and even impatient to show, by word and act, their readiness to defend those rights and interests.

Addresses to the President, expressing approbation of his course, and tendering a cordial support, began to come in from different parts of the country soon after the first despatches were published in March ; but they were greatly multiplied by the fuller details subsequently given by the Envoys ; and every newspaper, whether Federal, or neutral, or moderate, was filled with these addresses to the President, and his answers. These served as fuel to the patriotic flame that then spread over the land ; and some which did not go so far as to approve of the course of the administration, by the resentment they expressed at the insolent demands of the French government, did in fact add to the administration the weight they had taken out of the scale of their opponents.

The Federal party thus feeling themselves possessed of a strength in the nation far beyond that which they had in Congress, decided on repelling the injuries of France, and even encountering all the evils of war, to the greatest of which they considered they had long been exposed.

The measures of preparation which they had carried by small majorities were as follows.

The President was authorised to raise a provisional army of ten thousand men, which, by the addition of special corps of artillery and cavalry, was subsequently increased to three thousand more ; and to purchase the

necessary arms and ammunition. He was also authorised to accept the services of volunteers.

Besides equipping the three frigates previously built, twelve inferior vessels of not more than twenty-two guns each were to be purchased. The ports and harbors that most invited attack were to be fortified, and the States that were found debtors on a general settlement of accounts were authorised to expend the amount they owed in fortifying their own territory.

The President was authorised to instruct all armed vessels of the United States to capture all French armed vessels which had made captures of American ships, or were hovering on the coast for that purpose.

American merchant ships were authorised to defend themselves, and to capture armed French vessels.

To provide the money which these and other measures of defence might require, two millions of dollars were to be raised by a tax on land and slaves. A tax on stamps, and a loan of five millions of dollars were authorised.

All these bills were more or less opposed by the Republican minority, but in general their opposition went rather to the details than the principles of the bills. In all these laws, essential to the vindication of the interests and honor of the nation, the party in power could safely rely on the popular support; but confident of their strength, they went a step further, and decided on passing some laws which aimed to punish the domestic enemies of the administration. This policy, aided by the vacillating course of the administration itself, proved fatal, as we shall see, to the Federal party.

The great body of the emigrants from Europe to the United States who took any part in politics, naturally

sided with those who were opposed to the authority of government, and wished to reduce it. They thus ranged themselves with the Republican party. Some of these, who belonged to the educated class, sought a livelihood as writers, and especially as editors of newspapers, and indulged in a strain of vulgar ribaldry and scurrility, the effect of which with the public was probably greatly overrated. It was therefore deemed advisable, by the Federalists in power, to put efficient checks on this class, both by way of prevention and punishment.

The party in power proposed to effect the first object by making naturalization more difficult. With this view, the residence necessary to naturalization was raised from five to fourteen years, and the previous declaration of the intention to become a citizen was advanced from three to five years. A stamp tax of five dollars was laid on the certificate of naturalization.

The difficulty of acquiring the rights of citizenship being thus increased, the President, by another act, had the power of apprehending and sending out of the country all aliens whom he should suspect to be dangerous to the United States, or to be concerned in any treasonable purpose.

Another act related to alien enemies, who, on a proclamation from the President, were liable to be secured, or sent out of the country.

Nor were these powers of prevention deemed sufficient, but those of punishment were also hazarded.

The act commonly known as the sedition law, after affixing merited punishment on all combinations to oppose the measures of the government, or to impede the operation of any law, or to intimidate or prevent any officer of the government from executing his trust, or to commit, advise or procure any insurrection, riot, or un-

lawful assembly, provides that any false, scandalous, and malicious writings against the government, or either House of Congress, or the President, with intent to bring them into contempt or disrepute, or to stir up sedition, or to excite unlawful combination, or to aid, abet or encourage the hostile designs of any foreign nation against the United States, was punishable by a fine not exceeding two thousand dollars, and imprisonment not exceeding two years. But the party accused might defend himself by giving the truth in evidence. This act was to continue in force until the end of the next Congress, March, 1801.

The acts concerning resident aliens, and that punishing seditious writings, were warmly and earnestly opposed by the Republican party as contrary to the Constitution of the United States. The alien law, besides that it gave to the President a degree of arbitrary power which was altogether repugnant to the fundamental principles of government in the United States, was regarded by them as unconstitutional; because it substantially violated that article which restrains Congress from prohibiting the migration or importation of such persons as the States should think proper to admit—such admission being rendered null and of no effect, if the President could forthwith send them out of the country: and because aliens admitted by the several States were entitled to the protection of the laws, and could not be punished for any supposed offence but after trial and conviction, which right the act in question takes away.

The sedition law was regarded as a still more direct violation of the Constitution, for that article, in one of the amendments which forbids Congress from passing any law abridging the freedom of speech<sup>1</sup> or the press

<sup>1</sup> First amendment to the Constitution.

had been always held to mean, that they should pass no law that would restrict the citizen in whatever he chose to print or write, and that the power of preventing the abuse of this freedom was reserved to the States exclusively.

The majority contended that the Constitution merely protected that freedom of the press which is consonant to law, and respected the rights of others, but not its licentiousness and abuse. It was further defended on the ground that the Constitution merely meant to prevent all previous restraint, such as is known to exist in many countries, and not to give impunity to libels; in proof of which it was urged that, in all the States, the freedom of speech and of the press is held to be as sacred and fundamental a principle as it is recognised to be in the above article of the Federal Constitution; yet in many, perhaps all, of the States, the abuses of this freedom are punished: and lastly, the law of Congress was defended on the ground that libels and slanders were offences at common law, which, they alleged, was in force in the Federal, as well as the State courts.

The vindictive purposes of this law were more clearly manifested by the bill first introduced, the impolicy of which the sagacity of Hamilton distinctly saw. In a letter, on the twenty-ninth of June, to Wolcott, with whom he was in close and confidential correspondence, he thus speaks of the bill then under consideration in the Senate: "I hope sincerely the thing may not be hurried through. LET US NOT ESTABLISH TYRANNY. Energy is a very different thing from violence. If we make no false step, we shall be essentially united; but if we push things to an extreme, we shall then give to faction body and solidity."<sup>1</sup>

<sup>1</sup> II. Gibbs's Life of Wolcott, page 68.

The lawyers and expounders of the Constitution were divided on this question, though, it is believed, with a great preponderance against the constitutionality of the law. The body of the people, without troubling themselves about these legal arguments, regarded the law as intended to restrain free discussion; and thinking the abuse of this freedom, which the law aimed to prevent, was a far less evil than the abuse of power to which the law was exposed, unhesitatingly condemned it, and joined in the cry that it was unconstitutional. The Republican party made the most of the advantage their too confident adversaries had thus unwarily given them, and in no long time the *alien and sedition laws* became by-words of popular reproach.

The other legislative measure at this session was the establishment of a navy department. But obvious as was the expediency of this measure, after the large addition which was made to the naval force, it was opposed by the Republican party; and forty-one voted against it, to fifty-one in its favor.

George Cabot, of Boston, was first appointed Secretary of the Navy; but he declining to accept, the place was given to Benjamin Stoddart, of Maryland.

As subscriptions were opened in the cities for money to purchase or build ships-of-war for the government, the President was empowered to accept these ships, and to issue a six per cent. stock to the subscribers for the sums subscribed.

In July, the treaties with France, by another act, were formally declared void; and all commercial intercourse with her dominions had been previously suspended.

To these we must add an act to punish frauds on the Bank of the United States; and an act to appoint com-

missioners for adjusting the conflicting claims of the United States and Georgia to the territory now constituting the States of Mississippi and Alabama, and for creating a government in that territory.

Under the authority given to the President<sup>1</sup> to appoint a Lieutenant-general of the provisional army, that office was tendered to General Washington, who had entirely approved the course of the administration, and who had consented to accept it on condition that he should not be required actually to take the field until it was necessary; and also, with a less formal understanding, that the general officers should be such as had his confidence. He accordingly made out a list, by which Hamilton was to be Inspector-general, with the rank of Major-general, and to be next in command to himself; Knox, and Pinckney, to be also Major-generals.

To this arrangement the President reluctantly consented, without, however, any abatement of his dislike of Hamilton, which, on the contrary, continued to increase until it was openly manifested to his friends, by his charging Hamilton with being at the head of a British faction.

When Knox found that, in the list of officers sent in by Washington, he was postponed to Hamilton, who had been his inferior in rank, he took umbrage at this seeming slight, and, in conformity with his previous declarations, he refused the appointment tendered him.

The President had been, at first, strongly disposed to support Knox's pretensions, and said that no other arrangement would be satisfactory to New England. Finding his Cabinet opposed to him on other points, he declared that there had been too much intrigue in this business, but that he did not mean to be the dupe of it.

<sup>1</sup> July 3d.

The commissions were accordingly made out in the order he had suggested, to Knox, Pinckney, and Hamilton. These facts having been communicated to Washington, who had been previously dissatisfied that some of the other appointments had not been consonant to his wishes, he wrote that "he should be brought to the alternative of submitting to the President's forgetfulness of what he considered a condition of the acceptance of the appointment, or of restoring his commission."

The members of the Cabinet, for the purpose of changing the President's resolution, agreed that Mr. Wolcott, who had his confidence in a greater degree than either Pickering or McHenry, should address him a letter on the subject. This was accordingly done.<sup>1</sup> In very respectful and guarded terms he states the difficulty; then dwells on the importance of a perfect harmony of views between the President and the commanding General; on General Washington's preference for Hamilton; and, since neither Knox nor Hamilton will accept, unless he has seniority, on the greater loss to the public from Hamilton's refusal. He takes especial pains to satisfy the President that New England did not feel any interest in General Knox's appointment, nor would be "flattered with the idea of being personified in him."

Washington himself wrote to the President,<sup>2</sup> wishing "to know at once what he had to expect." He stated all the facts relative to the subject, and asked in what manner these stipulations he had made had been complied with. The order in which he had placed the three Generals seemed also to have been the understanding of the Senate. "But," he added, "you have been pleased to order the first to be last, and the last to be first." He inquired whether Mr. Adams's determination to reverse

<sup>1</sup> Sept. 17th.

<sup>2</sup> Sept. 25th.

the order of the three Major-generals was final, and whether he meant to appoint another Adjutant-general without his concurrence.

The President replied<sup>1</sup> that he, some time before, had signed the three commissions, and dated them on the same day, in hopes that an amicable adjustment might take place among the gentlemen themselves. But if these hopes should be disappointed, the controversy would of course be submitted to General Washington, as Commander-in-chief; and should any appeal be made to himself, he was determined to confirm that judgment.

In this explanation Mr. Adams disingenuously concealed his opposition to Hamilton, and even his decided preference for Knox; since, but for Wolcott's letter, he would have dated their commissions on different days. It can scarcely be doubted that, with his wonted obstinacy of purpose, and his unwillingness to surrender any portion of his official power, he would not have yielded, but for the fear of offending Washington, and thus losing the General's influence, and that of his numerous friends, in the approaching election.<sup>2</sup>

On the sixteenth of July was terminated a session of Congress which had produced a prodigious change in the relative condition of the two parties. When they met in November, there was little difference in their relative strength, either in the House of Representatives or the nation; and it seemed probable that if the Republican party was a minority in Congress, it constituted a majority of the people. The conduct of France had produced, however, a mighty change, and that change was principally with the nation. Of all the members of the House, but one went over to the Federalists; but several others occasionally showed misgivings that they

<sup>1</sup> Oct. 9th.

<sup>2</sup> See II. Gibbs's *Adm.*, page 104.

no longer had the confidence of the American people; and several, to avoid the dilemma of either deserting their party, or offending their constituents, returned home before the end of the session. The leader of the opposition was Mr. Gallatin, and next to him, Messrs. Giles, Loring, and Nicholas, who, not content with combating the defensive measures generally, scrutinized their details, and sometimes suggested amendments which had the sanction of a majority. Mr. Harper, of South Carolina, was the most active and efficient of the Federal majority. The more sagacious of the party, with Mr. Jefferson at their head, soon began to found hopes on the bold measures of their opponents.

Besides the supposed violations of the Constitution in the alien law, and yet more in the sedition act, they naturally concluded that the tax on lands and slaves would be unpopular; and that war itself, after the first burst of indignation was over, would be distasteful to the great bulk of the nation. They looked upon these as certain sedatives of the present excitement; they aided their effect by industriously maintaining, through the Democratic press, that peace might still be made with France, if the government of the United States sincerely wished it; that, supposing the demands for money to have been made with the knowledge and consent of Talleyrand, there was no evidence that they were also made with the knowledge and consent of the Directory; that the publication of the despatches was unwise, and tended to make future negotiation more difficult; that war would throw the country into the arms of Great Britain, who would be always ready to use her power and influence for her own exclusive benefit: and that the large discretionary powers given to the President, backed as they were by an efficient army and navy, were dan-

gerous to liberty, more especially when they were wielded by a man who had been long known to be unfriendly to a Republican government. But of all these appeals to popular sentiments and prejudices, no one had so much effect as the act against sedition, which went by the name of “the gag law.”

The Federalists were not behindhand in endeavoring to bring odium on their political opponents. They urged that the very efforts made to allay the public indignation, so justly excited, proved that there was a party disposed to sacrifice the interests of their country to those of France, as Talleyrand had openly boasted. Hence their labored apologies for the mean and mercenary proposals made to the American Envoys, their opposition to every measure of national defence, and the willingness which some professed to become tributary to France, rather than to go to war: hence the publication of Talleyrand’s answer to the Envoys before it was received by the government. They were entirely successful, at first, in rendering the leaders of the Republican party objects of intense hatred; and a toast given on the fourth of July—“millions for defence, but not a cent for tribute”—became the triumphant battle-cry of the Federalists.

In this state of mutual irritation and crimination, nothing failed to become an object of suspicion that was capable of exciting it. Thus Dr. Logan, a Quaker of Philadelphia, actuated by that love of peace which characterizes his sect, formed the romantic project of going over to France, and of endeavoring, by argument and persuasion, to divert the French government from war, if that was its object. He procured a few introductory letters from some friends, and, among others, from Mr. Jefferson, who had no other agency in this self-

created mission. Yet this scheme of an honest but conceited enthusiast was distorted by political prejudice into a scheme of traitorous correspondence with the enemies of the country.

The Republican party were not a whit more liberal or just to their opponents, if we may regard the public journals on their side as exponents of their views. According to the habitual calumnies of the political press, every American in the highest estimation with one-half of his countrymen, preferred the interests of France or England to those of his own country.

Mr. Gerry, who had consented to remain in Paris, in the vain hope of bringing about an adjustment of the differences between his own country and France, finding that the promises of M. Talleyrand to make any further advances towards that object were delusive, finally took his leave of Paris in July, and reached Washington in October.

He was cordially received by the Republican party, who hoped to derive from him some materials for weakening the effect that had been produced by the previous despatches of the Envoys; and which might be of use in the approaching Presidential election: but with the Federal party, displeased at his separating himself from his colleagues, and at his extreme forbearance towards the French authorities, after their base proposals and insolent disclaimers of them, he was an object of contempt and ridicule. Mr. Adams, of all his party, seemed alone disposed to uphold him.

The Federalists were not deterred by the unpopularity of the sedition law from trying its efficacy in punishing the libels against the government; and Matthew Lyon, who had rendered himself peculiarly obnoxious to them, since his contest with Griswold, and who had, in a letter

published in a Vermont paper, commented freely on the character and measures of the President, without, however, exceeding what would now be considered the license of the press in its strictures on a public affair, was tried in the Federal Court of Vermont, found guilty, and sentenced to pay a fine of one thousand dollars, and to undergo an imprisonment of four months.

To raise the money to pay the fine, an earnest appeal was made to his Democratic friends by the printer of the Vermont Gazette, who was himself indicted, and finally sentenced to a fine of two hundred dollars, and an imprisonment of two months. Lyon, while in prison, was re-elected to Congress.

In the autumn of this year Mr. Jefferson, after a consultation with his confidential friends, Messrs. Madison, Wilson Nicholas, and George Nicholas, about the best means of profiting by the unconstitutionality of the alien and sedition laws, to rouse the spirit of the people, decided that resolutions, to be drawn by Mr. Jefferson, should be offered by George Nicholas in the Kentucky Legislature. These were accordingly prepared and passed, and though they may be construed to assert the doctrine of the right, in a State Legislature, to nullify an act of Congress which it declared unconstitutional, yet it has been asserted by those with whom those resolutions originated, that they were not intended to propose an immediate nullification of the act of Congress, but merely to assert the right, to be acted on thereafter "if repetition of the wrong should render it expedient;" and further, that while they were not "committed absolutely to push the matter to extremities," they might "yet be free to push it as far as events would render prudent." By these words,<sup>1</sup> used by Mr. Jefferson in a

<sup>1</sup> III. Jefferson's Correspondence, page 428.

letter to Wilson C. Nicholas, and the sentiments he utters in the same letter in favor of the Constitution, their purpose seems to have been to push this doctrine of the nullity of an unconstitutional law as far as was consistent with preserving the Constitution inviolate, and no farther. Neither Mr. Jefferson nor Mr. Madison ever for a moment meditated any course which would involve a destruction of the Union. They scarcely anticipated that their authority would, in a few years, be relied on for that purpose.

The first resolutions passed<sup>1</sup> by the Legislature of Kentucky did not go so far as Mr. Jefferson's in avowing the purpose of nullification, though it might seem to be the legitimate consequence of their doctrine.

At the next session of the Virginia Legislature, in December, resolutions of a similar character, denouncing the alien and sedition laws to be unconstitutional, were offered by Mr. John Taylor, the leader of the Republican party, and were passed by a very large majority. It has since appeared that they were drawn by Mr. Madison.

Congress met at its appointed time, the third of December; and the President's opening message was not delivered until the eighth. After noticing the epidemic which had visited many of the cities of the United States, but had at length disappeared, he congratulates the nation on the patriotic spirit recently manifested against the menaces and aggressions of France.

Deferring a fuller examination on the subject, he states that while the French government professed its aversion to a rupture with the United States, and was unwilling to receive their minister, it seemed to assume the right of prescribing the qualifications of such Minis-

<sup>1</sup> November 4th.

ter. The decree, too, which pretended to restrain the depredations of French cruisers on American commerce could afford no relief whatever, since it merely required them to conform to the laws relative to prizes, without altering the laws themselves.

The law of January, which subjected neutral vessels and cargoes to condemnation, if the latter were of British origin, was still unrepealed. This was an act of war on neutrals which both their interest and honor impelled them to resist.

There was nothing in the conduct of France which should induce the United States to relax their preparations for defence. This course was not inconsistent with our desire for peace; but to send another Minister,<sup>1</sup> without more determinate assurances that he would be received, would be an act of humiliation. It would, therefore, depend upon France to take the requisite steps. Considering, however, the late manifestations of her policy, he repeats his convictions that, whether we negotiate or not, vigorous preparations for war would be equally indispensable.

He earnestly recommends the naval establishment to their attention, and says that probably no country had ever experienced more advantages than had been afforded from the arming for our maritime defence.

After the Spanish government had evacuated the posts in their possession, the Commissioners had run the

<sup>1</sup> It seems that his first determination, in consulting with his Cabinet, had been to declare that he would not send another Minister to France; but that, if she was disposed to renew the negotiation, she must make the first overture. Even this was a concession from his first purpose, which was to refuse negotiations, and to refuse to receive any Minister she might send: yet, in two days, he resolved to offer to send another Minister, on receiving the proper assurances, and so the speech was framed. — II. Gibbs's Wolcott, page 187.

boundary lines as far as the land extended to which the Indian title had been extinguished.

The mixed commission under the British treaty had determined the real river St. Croix; but the right to a number of Islands in Passamaquoddy Bay was yet undecided. The proceedings of other Commissioners under the British and Spanish treaties were also noticed.

The answers of both Houses were respectful, and in accordance with the speeches. They were adopted without visible opposition.

The first weeks of the session were principally employed in debating questions of minor importance, as those relating to the impeachment of William Blount; the number of copies of the alien and sedition laws which should be published; and in the discussion of a resolution proposing to punish all persons who should, by corresponding with a foreign government, "usurp the Executive authority" of the United States.

But on the eighth of January the President communicated to Congress, in consequence of a resolution of the second instant, the facts of the forcible taking, in November, of fifty-five men from the American sloop-of-war Baltimore, and retaining five, on the ground of their being British subjects.

He stated that the American Minister in London had been directed to make a proper representation of the affair, that he had no doubt this first instance of misconduct by British officers towards the American ships-of-war would be readily corrected. He sent also the instructions which had been given to the commanders of armed vessels, not to permit any ship to be detained or searched, nor any men to be taken from her by any foreign ship, but to resist such attempt, and if over-

powered by superior force, to yield his ship with his men, “but never his men without his vessel.”<sup>1</sup>

In the attitude in which the American government then stood towards France, the British government showed every disposition to treat the American navy with courtesy, and very promptly disavowed this outrage on the Baltimore; but their sentiments were not always fairly represented by their officers of the navy, whose offensive conduct then, and, yet more often subsequently, gave rise to desperate quarrels, and imparted new force to that patriotic spirit which, while it provoked resentment, also made every preparation of discipline and equipment for the day of trial, the effects of which soon shone forth so conspicuously.

The President soon afterwards sent another message, in which he communicated the last despatches from Mr. Gerry, which have been already mentioned, and the French decrees; and three days later,<sup>2</sup> he sent them a report from Mr. Pickering on the last communication relative to the affairs of the United States and France.

The failure of the attempt of the French government to extort money from the American Envoys, and the resentment exhibited towards her by the American people, induced that government to change its policy, and to endeavor to regain the ground it had lost in the United States. Soon after Mr. Gerry left Paris pacific overtures were made on the part of the French through Mons. Pichon, French Secretary of Legation at the Hague, to William Vans Murray, the American Minister to Holland; and in September Talleyrand wrote to Pichon, approving of what had been done, and particularly of his assurance, that whatever Minister the United States might send to France should be received

<sup>1</sup> IV. State Papers page 149.

<sup>2</sup> January 21st.

"with the respect due to the representative of a free, independent, and powerful nation;" and required him to communicate these sentiments to Mr. Murray, to be transmitted to his government.

In February, the President nominated Vans Murray Minister to France, and the Senate was informed that he was instructed not to go thither until he received satisfactory assurances that he should be received with proper respect, and that a Minister of equal rank should be appointed to negotiate with him. This nomination was made without consulting any of his Cabinet, to the great mortification of the leading Federalists in and out of Congress, and to the surprise of all. As he says, it occasioned a great clamor among the members of the House of Representatives and out of doors, and an abundance of squibs. A committee of the Senate called on him to confer with him on this measure, which was not only distasteful in itself, but they made objection to Mr. Murray himself. On their suggestion, that a commission would be more satisfactory, he consented to appoint one; and the next day,<sup>1</sup> was induced to modify the embassy to France, for the sake of giving "more general satisfaction to the Legislature and the nation," by appointing Oliver Ellsworth, Chief Justice of the United States, Patrick Henry of Virginia, and William Vans Murray, Envoys to the French republic.

To the Federal party, generally, this measure caused as much dissatisfaction as surprise. A large part of them had such a dread of the consequences of French fraternity, that they would rather encounter the evils and dangers of war, than those of a closer connection with France; while others, perhaps the larger number, actuated by mere party views, thought that a peace with

<sup>1</sup> February 25th.

France would give strength to their opponents, and deprive them of the advantage they had lately acquired; that the patriotic indignation and military ardor which had operated so favorably to the Federal party must then subside; and the discontents excited by the alien and sedition law and the direct tax, having no counter-action, would render the administration so unpopular as to influence the decision of the approaching Presidential election.

Mr. Adams, however, regarded the subject in a very different light. He saw that, by the operation of the unpopular laws passed at the preceding session, the Federalists were losing ground in some of the States; and he was disposed to take a course that might conciliate a part of the opposition. With this view, he not only readily met the advances of France, but he also took occasion to declare that some of his party constituted a British faction; that Hamilton, whom he hated, envied, and feared, belonged to it; and he even intimated to his confidential friends that some of his own Cabinet had a bias that way. It was this same disposition to temporize with his political opponents that led him, according to some of his own party, to pardon Fries, soon afterwards convicted of treason in Pennsylvania, and to bestow office on some of the Republicans who were the least exceptionable.<sup>1</sup>

<sup>1</sup> It is curious, and not uninstructive, to compare the views of Mr. Adams himself and of the dissenting Federalists on this measure.

Mr. Adams says, in a letter to his friend Cunningham, ten years subsequently, “If ever an historian should arise, fit for the investigation, this transaction must be transmitted to posterity as the most glorious period of American history, and as the most disinterested, prudent, and successful conduct in my whole life. For I was obliged to give peace and unexampled prosperity to my country for eight years, and if it is not for a longer duration, it is not my fault, against the advice, entreat-

His course, often uncertain and prompted by impulse, became now, more than ever, wavering and irregular. At one time his self-sufficiency was predominant, and made him underrate or overlook the real danger he was likely to encounter. He was thus persuaded that Mr. Jefferson was his real friend, and aspired to no higher position than to be his "lieutenant." At another, his dislike of individuals, especially of Hamilton, bore sway, and made him blind to the consequences of converting that able leader and his numerous adherents into open enemies. At other times, again, every other feeling was merged in the fear of losing his election, and he was willing to quarrel and break with men of his own party for the chance of winning over a few of his opponents. Drawn in such different directions by the passions of the hour, his language and conduct had the extravagance and ties, and intrigues of all my Ministers, and against all the leading Federalists in both Houses of Congress. The two factions have conspired hitherto to smother all my glory." They cannot avoid letting out, now and then, a glimpse. — Cunningham's Correspondence, p. 94.

Mr. Gibbs, after speaking of the triumphant policy of Federal measures in 1798, thus remarks :

"At this moment, when those who had so long and so faithfully toiled in their country's service, saw at length the approaching accomplishment of their labors in its relief from foreign subjection; when domestic faction was already overwhelmed by the indignant voice of an awakened people; when Federalism was at last triumphant, and a consistent adherence to its policy would have preserved its ascendancy; when resistance was at the point of securing that justice which had been denied to entreaty and to reason, a blow was struck which annihilated at once the spirit thus and so hardly aroused — which blasted the hopes to which that spirit had given birth — which destroyed in a moment all that the labor of years had effected — and that blow was struck by him whom the Federalists had raised to the Chief Magistracy, and who had pledged himself to the maintenance of their principles. It was the institution of a THIRD EMBASSY to the nation that had outraged our government." — II. Gibbs's Wolcott, page 184.

inconsistency of a madman; and he seems to have been so regarded by some of those who had opportunities of closely inspecting his acts and purposes at this time.

Matthew Lyon having served out his imprisonment in Vermont, appeared in the seat in Congress to which he had been elected: on which Mr. Harper moved his expulsion for the offence of which he had been convicted. After a short debate the vote was taken, when the number for his expulsion was forty-nine to forty-five—but two-thirds being required, he retained his seat.

There having been numerous petitions for the repeal of the alien and sedition laws, on the ground of their being unconstitutional, they had been referred to a select committee, which made an elaborate report on the subject, defending their constitutionality.

The report and the laws were assailed by Messrs. Gallatin and Livingston. Not only did their opponents refrain from replying to their arguments, according to their predetermined purpose, but by their noise and disorder endeavored to prevent them from being heard. The committee's report was sustained by fifty-two votes to forty-eight.

The salaries of the members of the Cabinet, which had been manifestly too low to secure the services of those who relied on the office for their support, were raised at this session to five thousand dollars for the Secretaries of State and Treasury, and four thousand five hundred dollars for the other two.

Congress took the advice of the President in laying the foundation for a permanent navy. With this view, two hundred thousand dollars were appropriated to the purchase of timber, and fifty thousand dollars for the purchase of two dock-yards. A million of dollars was

appropriated for building six ships-of-the-line and six sloops-of-war.

A bill to introduce an uniform system of bankruptcy, after having reached the third reading, was rejected by the House by a vote of forty-seven to forty-four.

Among the bills passed was one which, probably for party effect, was intended to punish such acts of private interference in the foreign relations of the country as Doctor Logan's. Such correspondence with the agents of a foreign government, in relation to controversies with the United States, was pronounced a high misdemeanor, and was punishable by a fine not exceeding five thousand dollars, and imprisonment not exceeding six months.

Another act suspended all commercial intercourse between the United States and France and her dependencies.

There was also a large augmentation of the regular army, so as to make it forty thousand men; and the President was authorised to receive the services of volunteers to the amount of eighty thousand more.

The third of March put an end to the constitutional term of the fifth Congress, and greatly altered the relative condition of the two parties. The Federalists, who, resenting the ill treatment of France, had the favor and co-operation of a majority of the nation, were now, by the pacific overtures of France, deprived of the advantage which that state of things had given them: while the Republicans, no longer subject to the heavy charge of taking sides with the enemies of their country, seemed to have their previous assertions, of the aversion of France to go to war with the United States, confirmed; and the grounds on which the Republicans assailed their adversaries, the alien and sedition laws, the direct tax, the

stamp tax, a standing army, and a costly navy, all running counter to popular and republican prejudices, had no counteraction, and were daily diminishing the number of those who had rallied round the administration when they thought the national honor assailed.

That the course taken by Mr. Adams was of injurious tendency to the Federal party, can scarcely be questioned; but whether any course he could have pursued would have continued that party in power is more questionable, when their measures had given their opponents such advantages in injuring them in the minds of the people.

There, indeed, appears to be much to condemn in the conduct of both parties at this era, whether that conduct be tried by the maxims of prudence or of patriotism. The Republicans, after the evidence that now seems so satisfactory of the meanness, and insolence, and unmitigated wrongs of the French rulers towards the United States, should have had no hesitation in abandoning their cause. They should have admitted that they had been mistaken in their character, and, no longer able to defend their conduct, they should have joined their government in resenting their injuries. By this patriotic course they would have preserved their own party, and even strengthened themselves with the nation. But by screening the misconduct of France, resisting the evidence as far as they could, and seeking excuses for what they could not deny, nor openly defend, they subjected themselves to the reproach of being false to their country, and seemed fast sinking into the character of an odious and desperate faction. But their errors were counterbalanced by the errors of their opponents. The Federalists, when they had profited by the elevated and patriotic course of vindicating the rights and honor of their country, had only

to continue the same policy ; and though they could not defend their rights without taxes, yet these would have been borne, when they were found necessary. But as soon as they aimed at vengeance as well as justification, they no longer had the support of the nation ; and so far as this course had the support of one party, it equally provoked the opposition of the other. But the most unwise part of their course was that, to punish some half dozen scurrilous editors, they passed laws which a large part of the nation conscientiously believed to be violations of the Constitution, and thus gave a color to the accusations that their purpose was to undermine that Constitution, and to erect upon its ruins a more energetic government. The good which it was possible for these to confer on their own party was insignificant — the mischief was incalculable. It is probable, as we shall see, that these errors, more than any thing else, contributed to that revolution of parties which was then effected.

## CHAPTER X.

### JOHN ADAMS'S ADMINISTRATION.

1799—1801.

A FEW days after Congress rose, the government received the very gratifying intelligence that Commodore Truxtum, in the frigate Constellation, had captured the French frigate Insurgente, carrying fifty-six guns, after a sharp action, in which the French ship had sixty-six men killed and wounded, and the American but four. This first success in battle of the infant navy, besides being grateful to the patriotism of the Federalists, was a source of triumph to the party which had fitted out that navy, and had ever been its advocates; and with the Republicans, a knowledge of this fact neutralized, or more than neutralized, the pride which they could not but feel at so signal a display of national skill and bravery.

At this time the State of Pennsylvania gave a new trouble to the administration, by an insurrection. The direct tax had, from the first, been unpopular in that State, and some of the officers employed in measuring the windows, preparatory to the execution of the Act, were violently resisted; and a part of the rioters having been arrested by the Marshal, they were forcibly rescued by a party of horsemen headed by John Fries, a captain of militia. The district judge having given to the Secretary of State an official notice of this obstruction of the law,<sup>1</sup> the President issued an admonitory proclamation.<sup>2</sup>

<sup>1</sup> March 11th.

<sup>2</sup> March 20th.

A body of the newly-enlisted recruits were soon ordered to march against the insurgents, and a requisition of militia was made of Governor Mifflin to sustain them. The disturbance was at once quelled, and Fries, with several of his associates, were apprehended and carried to Philadelphia. Fries was tried for treason, and found guilty; but, on account of the disqualification of one of his jurors, a new trial was granted. He was again found guilty, and sentenced to be hanged, but was pardoned by the President.

Let us now return to the new Mission to France. Early in March, Mr. Pickering wrote to Mr. Murray, inclosing his commission as Envoy, and directing him to inform the French Minister of Foreign Relations of the appointment of Messrs. Ellsworth, Dana, and himself, and of the condition on which his colleagues were to leave the United States; that is, when they had received "direct and unequivocal assurances from their Minister of Foreign Relations that they should be admitted to an audience of the Directory; should enjoy all the prerogatives attached to that character; and that a Minister of equal powers should be commissioned to treat with them."<sup>1</sup>

He was also told that "no more indirect or unofficial communications, written or verbal, should be held with any person or agent of France, on the subject of the differences between the two nations. If the French government really desired to settle those differences, it must conform to the course they pointed out, *unless the Directory should prefer sending a Minister Plenipotentiary to the United States.*"<sup>2</sup> These last words were inserted by the President himself, without consulting his Cabinet.

<sup>1</sup> IV. State Papers, page 298.

<sup>2</sup> II. Gibbs's Wolcott, page 247.

At a meeting of the Cabinet,<sup>1</sup> it unanimously agreed upon the points indispensable to any treaty. These were :

First. France should indemnify American citizens for spoliations, and the unwarranted sentences of her prize courts.

Second. All captures for want of a *role d'équipage* were to be held unlawful.

Third. The United States were to make no guarantee of any part of the French dominions.

Mr. Murray lost no time<sup>2</sup> in informing M. Talleyrand of the appointment of himself and his colleagues, and of the assurances required of the French government before they could enter on the business of their embassy.<sup>3</sup>

To this letter M. Talleyrand made a very civil as well as prompt reply.<sup>4</sup> “Be pleased,” he says, “to transmit to your colleagues, and accept yourself, the frank and explicit assurance that the French republic will receive the Envoys of the United States, in the official character with which they are invested; that they shall enjoy all the prerogatives which are attached to it by the law of nations; and that one or more Ministers shall be duly authorised to treat with them.”

He adds, “It was certainly unnecessary to suffer so many months to elapse for the mere confirmation of what I have already declared to Mr. Gerry, and which, after his departure, I caused to be declared to you at the Hague.”

While Mr. Ellsworth and Governor Dana were waiting to receive the required assurances from the French government, copious and minute instructions were prepared to guide them in their diplomatic intercourse, and

<sup>1</sup> March 10th.

<sup>2</sup> May 5th.

<sup>3</sup> IV. State Papers, page 299

<sup>4</sup> May 12th.

as to the terms of the treaty they were expected to make. Besides the stipulations already mentioned, the instructions admitted that enemy's property might be taken from the ships of a neutral; but, in other respects, the terms were reciprocally liberal. These instructions were ready by the eleventh of September, and were transmitted to the President, then at Braintree, in Massachusetts. But at this time intelligence was received from Mr. Murray that, by a new revolution in France, the Consular government had superseded that of the Directory, and that it was obviously prudent to ascertain the temper of the new government before the Envoys proceeded to Paris,<sup>1</sup> especially as it was doubtful whether the recent change of power was more than temporary, and as some deemed the restoration of the Bourbons probable.<sup>2</sup> This suspension the Cabinet unanimously recommended, and at first it met with the President's approbation; but he deferred his final decision until he came to Trenton, where the officers of the government had temporarily removed, in consequence of the reappearance of the yellow fever in Philadelphia. He reached Trenton on the tenth of October, and here were also assembled Ellsworth, Dana, and General Hamilton. It was then the understanding of all that the Mission was to be suspended for the time; but in the course of a few days, in a conference with the Cabinet, the instructions were carefully revised and settled, and the next day the President, without consultation with his Ministers, or making known his purpose, decided on no longer delaying the Mission, and ordered the Secretary of the Navy to have a frigate prepared for the conveyance of the Ministers.

The mutual alienation of the President and three members of his Cabinet was now greatly increased.

<sup>1</sup> II. Gibbs, page 263.

<sup>2</sup> Ibid. page 265.

Pickering, Wolcott, and McHenry, all resented what they considered as ill treatment on the part of Mr. Adams; and he was influenced by the suspicion that there was a combination between those Secretaries, Hamilton and Ellsworth, to defeat his purpose of negotiating with France; and that their meeting in Trenton was the result of a preconcerted scheme on their part—a suspicion, however, for which there appears to have been no foundation. Ellsworth went there to meet his colleague, Dana; and if the Mission was persisted in, of which he then entertained doubts, that they might have the benefit of a personal conference with the Executive. Hamilton, too, avers that he went there to make some military arrangements with General Wilkinson, as had been agreed upon some time before, and he had no expectation of finding Mr. Adams there. If the President was before doubtful about his course, this suspicion determined him to adopt that which was most likely to defeat Hamilton's scheme of a war with France, he to be first Commander-in-chief of the army, and then President; but, in the distempered state of his mind, he did not see that, in disappointing Hamilton's prospects, he was ruining his own.<sup>1</sup>

Although these three members of his Cabinet had no great respect for Mr. Adams's judgment, resented his overbearing temper, and laughed at his vanity, they might have been held together by the strong cement of party feeling; but for their decided preference for Hamilton, and their close correspondence with him while he

<sup>1</sup> The explanation given by Mr. Adams of this part of his administration differs widely from that of his Secretaries. Mr. Gibbs convicts Mr. Adams of several errors and contradictions; but his mistakes might have resulted from a lapse of memory, especially when he wrote under the influence of very warm resentment for supposed ill treatment.

was hostile to Mr. Adams personally, and unfriendly to his re-election, to which, perhaps, we may add Hamilton's own aspirations to the Presidency, their course is less defensible.

In this delicate position between Adams and Hamilton, who were in a state of undisguised hostility, when the Secretaries gave their esteem and confidence to one, while they held the offices of counsellors to the other, it may be fairly questioned whether their continuance in office was consistent with strict propriety, or an elevated morality; but when one recollects the facility with which men disguise their real motives, and find justification for their acts, their course might have appeared to them defensible on the ground of patriotism; and that they were inexcusably false to Mr. Adams, from whom they held office, because they were true to their party and their country.

Meanwhile Mr. Jefferson and his political associates prepared to take advantage of the present dissensions of their opponents, as well as of the unpopular acts of Congress. With this view, it was arranged that Mr. Madison should go into the Virginia Legislature, and exert all his powers of logic to prove the unconstitutionality of the alien and sedition laws, and to sustain the remedial doctrines advanced by Kentucky and Virginia in the preceding winter.

To resist Madison's weight and influence in the Legislature, Patrick Henry had been persuaded to oppose, on that theatre, his former political antagonist: and thus these distinguished men were expected to be seen heading the parties they had respectively opposed. He who had mainly contributed to procure the adoption of the Federal Constitution, aiming to prove that it was wrested from its legitimate purpose; and the other, who had op-

posed its adoption, freely admitting that it had, on trial, been found exempt from the mischiefs and dangers he had anticipated.

But this encounter of eloquence and argument, on which expectation in Virginia, and indeed throughout the Union, was on tiptoe, was destined never to take place. Patrick Henry died in the course of that summer, leaving behind an unequalled reputation for native eloquence; but a character as a statesman which had been alternately praised and blamed by every man of either party.

It is proper to mention that General Washington, who, after having been so long neutral between the two great parties, had been led, of late, to throw all his weight into the Federal scale, had used his influence to bring out Mr. Henry again into public life.<sup>1</sup> There had previously been some coolness or estrangement between them, but which had been removed by the interposition of their mutual friends.

As to the claim set up by Mr. Adams to disinterested patriotism for thus taking a course in opposition to the wishes of his Cabinet and his party, it seems to be very questionable. While he believed, as he appeared to do, that Hamilton was opposed to his re-election, and had the entire confidence of a majority of his Cabinet, he would naturally be disposed to counteract their schemes; and not doubting that a new Mission to France would be very acceptable to the Republican party, he had the further inducement of trying to conciliate that party, and in case of only partial success, he might expect to gain more from them than he should lose from the Federalists. It thus appears that a regard to his own interests, under the circumstances, might have been the governing

See xi. Sparks's Washington, page 390.

motive of his conduct. But whatever were his motives, the act itself, which was likely to give peace to the country, and protect its foreign commerce, and which really produced those effects, must be unhesitatingly commended by all who do not regard the loss of power in the Federal party as an irreparable mischief.

In this state of things, when the President and the three members of his Cabinet who had the most weight and influence were in a state of mutual feeling little less than hostile, he met the sixth Congress in Philadelphia.

In his opening speech, the President, after general congratulations on the prosperity of the country, notices the insurrection in Pennsylvania, and the measures by which it had been effectually suppressed.

He recommends a revision and new organization of the judiciary system.

He had met the advances of the French government, and had appointed Ministers to that country on certain conditions, which having been complied with, those Ministers had been ordered to proceed to Paris to negotiate a treaty.

He had authorised a renewal of commercial intercourse with St. Domingo, which had proved advantageous.

The Commissioners for ascertaining the amount of British claims, under the treaty of 1794, not being able to agree, and those of the United States having withdrawn, the British government had ordered its Commissioners, under the seventh article for ascertaining the claims due to the United States, also to withdraw. He should endeavor to have the requisite explanations, so that the functions of these Commissioners should be renewed.

According to the report of the Commissioners appointed

to provide buildings in the new city of Washington, they would be ready for the removal of the seat of government in December following, the time designated for that purpose.

He concludes with exhorting Congress to persevere in a system of national defence, which was imperiously required in the present state of the world.

A committee of five was appointed to prepare an answer to the speech ; and General Marshall, who had been elected to Congress from Virginia, was its chairman. In this paper he adroitly managed to speak of the Mission so as to seem to approve of the President's course, without offending those who had dissented from him. It was adopted without opposition.

The answer of the Senate was, as usual, courteous and respectful. But on the subject of the French Mission they simply remarked that, under the uncertainty of its success, and the extent of the war then raging in Europe, it would be unwise to relax in defensive preparations.

In this Congress, as in the preceding, the Federalists had a small majority in both Houses ; but their disagreement as to the policy of the Mission to France, and the cordial support of Mr. Adams, reduced their strength nearly to a level of that of their opponents.

In less than a fortnight after the meeting of Congress, it received the distressing intelligence of Washington's death, after a short illness, brought on by exposure to a cold rain. He died on the fourteenth of December. Both Houses adjourned when the intelligence was first received ; and the next day General Marshall, after a brief, but comprehensive, eulogy on Washington, offered three resolutions : That the House wait upon the President to condole with him on the occasion ; that its mem-

bers and officers wear mourning the remainder of the session ; and that a joint committee of both Houses be appointed to pay due honors to the memory of the man who was “first in war, first in peace, and first in the hearts of his countrymen;” and lastly, that the House adjourn to the succeeding Monday : which were unanimously adopted.

General Henry Lee, one of the members from Virginia, was appointed<sup>1</sup> to deliver an oration<sup>2</sup> to the Houses ; and by another resolution it was recommended to the people, on the next birth-day of Washington, the twenty-second of February, to testify their grief, and to commemorate his virtues and services by eulogies, addresses, and public prayers. These resolutions<sup>3</sup> were passed unanimously, and the House adjourned from Thursday till the succeeding Monday ; and though he had, for a year or two before his death, lost much of his former popularity with the more violent of the Republican party, yet these feelings were now all hushed in the grave, and nothing was recollected but his eminent services in the Revolution, his purity, firmness, and disinterestedness in all situations. The honors he received abroad are such as have no parallel. Napoleon Bonaparte, then First Consul of France, ordered an oration to his honor ; and the whole British fleet lowered their colors half-mast.

These unwonted honors were not paid to the elevated

<sup>1</sup> December 26th.

<sup>2</sup> As this brief eulogy has become familiar as household words to the nation, it is proper to state that it originated with General Lee, who not having been in the House when General Washington’s death was first announced, prepared those resolutions, and gave them to his colleague.—V. Marshall’s Washington, page 766.

<sup>3</sup> It deserves to be remarked that there are verbal differences between each of these three resolutions, as stated by Marshall, and as reported in the Annals of Congress.—See Annals of Sixth Congress, page 204.

station Washington had occupied, as commanding the armies of his country, of presiding in her councils, nor to the unequalled services he had rendered that country in those characters, nor to his singular fortune in having prospered in all his undertakings, and in having obtained an unanimous vote of a free people in every office to which he had been nominated—but to his spotless virtues, which ever sought the noblest ends by the most unexceptionable means, and in whom the virtues of justice and fortitude, prudence and temperance, were so harmoniously blended, that it would be difficult to say which had the predominance. He was regarded not so much as an American, as a man whom all mankind took pleasure in honoring, and who was an honor to the human race.

The Federalists had especial cause to bewail his loss, now that his weight and influence had been decidedly thrown into their scale; and when the dissensions among the leaders of their party threatened its ultimate overthrow.

The subject of domestic slavery was again made the source of irritation in this session, as it had been in all the preceding sessions, though Congress had so often declared that it had no power to act on the subject.

The colored men of Philadelphia presented a petition, which was not content with asking Congress to prevent the trade in slaves, alleged by them to be then carried on from the ports of the United States, and with objections to the fugitive slave law of 1793, but they also complained that freemen were often kidnapped and sold as slaves in the United States.

The reference of this petition to the Committee on the Slave-trade was vehemently opposed by the Southern members of both parties, on the ground that it was be-

yond the constitutional powers of Congress; and the same views were sustained by some of the members from New England.

In consequence of the discussion which ensued, the member from Philadelphia, Mr. Waln, who had presented the petition, limited his previous motion for a reference to that part of the petition which respected the supplying slaves to foreign countries by American citizens, and to the fugitive slave law: to which a member from Virginia, Mr. Gray, moved an amendment, that the remainder of the petition which asked Congress to legislate on subjects on which they had no jurisdiction, had a "tendency to create disquiet and jealousy, and ought, therefore, to receive the pointed disapprobation of the House." The last part of this amendment being further amended by substituting the words, "ought to receive no encouragement or countenance from the House." This amendment received the unanimous vote of the House, with the single exception of Mr. Thatcher, the member from the district of Maine.

Mr. Nicholas, of Virginia, offered a resolution<sup>1</sup> for the repeal of the laws which had authorised an increase of the army and navy; and the discussion which ensued was used by both parties for the purpose of addressing themselves to the nation, and thus influencing the sentiments of the voters in the approaching Presidential election, since neither could reasonably expect to alter the relative force of the parties in the House, in which the Federalists had a majority of twenty or more. The subject was debated in Committee of the Whole until the tenth of June, when the resolution was rejected by fifty-nine votes to thirty-nine.

But the majority, at length sensible that they would

<sup>1</sup> January 9th 1800

be likely to lose popularity with the nation if it should be subjected to the expense of an army and a navy, which the pending negotiation with France was likely to make unnecessary, of their own accord proposed a reduction of the means of defence which had been recently adopted; but they were interrupted in their purpose by the question of a breach of privilege.

Mr. Randolph, of Virginia, in his speech in support of Mr. Nicholas's motion, had adverted to the army about to be raised, in contemptuous terms, as a means of national defence, speaking of them as mercenaries and as ragamuffins. A few nights afterwards he was rudely insulted in a theatre by some young officers; on which he wrote a letter to the President, stating the facts, and demanding his interposition to correct the evil. The President immediately sent Randolph's letter to the House of Representatives, stating that as it was a breach of privilege of which the complaint was made, he sent it to the House, as it was a proper subject for their consideration. He added that, without making any comments on the matter or style, he should inquire into the facts of Randolph's letter, and act as that investigation should render proper.

This communication, and the accompanying letter, were referred to a special committee, who reported that the subject had been properly referred to the House, and that Randolph's letter, the style of which they censure, in seeking to give to the President a power which properly belonged to them, was little short of a breach of privilege. They had, they say, examined the facts about which the testimony was so contradictory, and they did not think it a proper case for the interposition of the House.

As both the President and the committee passed a censure on the style of Randolph's letter, it may be

remarked that it seems no otherwise objectionable than in a studied display of Republican simplicity, and a rejection of those superfluous and unmeaning words of courtesy, which custom leads us to expect rather than to require, and which some may think there is quite as much arrogance in exacting as in omitting. After a debate of several days, the House adopted the first resolution of the report, which approved of the course taken by the President; but rejected the second resolution, after having amended it so as to censure the conduct of the officers complained of. The vote on the second resolution, as amended, (which considered the case not proper for the interposition of the House,) was forty-nine yeas to fifty-one nays.

A bill was then introduced by the majority, which suspended further enlistments, unless the President, in the event of a war, should deem them necessary. And the building of the seventy-fours was also virtually suspended by withholding the requisite appropriation.

Early in February,<sup>1</sup> Mr. Livingston, of New York, moved a call upon the President for the papers in the case of Thomas Nash, or Jonathan Robbins, who, claiming to be a native citizen of the United States, had been surrendered to the British authorities by order of the President.

The papers called for being sent,<sup>2</sup> it appeared that, in the May preceding, the British Minister (Mr. Liston) had applied to the Secretary of State for the delivery of a seaman, under the treaty of 1794, named Thomas Nash, one of the mutineers on board the British frigate Hermione, who had been guilty of murder and piracy; and that the President had sent an order to the district judge of South Carolina, directing Nash's delivery to the

<sup>1</sup> February 4th.

<sup>2</sup> February 7th.

British Consul, in case such evidence of his guilt was adduced as would justify his being apprehended and brought to trial under the laws of the United States or of South Carolina. Under this order the man was delivered up, carried to Jamaica, where he was tried, convicted, and executed. It further appeared that he had sworn he was an American; that he was born in Danbury, in Connecticut; and that his name was Jonathan Robbins. But the selectmen and clerk of Danbury certified that no person of that name had ever resided in that town, or been known to any of its inhabitants; and by the letter of the British Admiral in command to Mr. Liston, Nash confessed, before his execution, that he was an Irishman.

This case of extradition under the treaty had caused a great sensation in the United States, and in the opposition papers it had been assumed that Robbins, as he was called, was a native of the United States.

But the evidence now adduced leaving no doubt on that point, Mr. Livingston was content to assail the President on the ground that the subject was one which properly belonged to the judiciary; that the President's order to the judge had been a dangerous interference with the judicial power; and that the judge's compliance with it had been a sacrifice of his constitutional independence.

These resolutions were supported by Messrs. Livingston, Gallatin, and Nicholas; and opposed by Messrs. Bayard, Harper, Otis, and Dana, and in conclusion by Mr. Marshall,<sup>1</sup> who made a most elaborate and conclusive argument, which was the admiration of both sides of the House, and procured for him throughout the nation that reputation for power of logic which he had long

<sup>1</sup> March 6th.

enjoyed at home. It was a complete vindication of the President's course, and is regarded as a fair exposition of the law of nations, and of the treaty on that subject. Nash having been guilty both of murder and piracy, though he was liable for the latter in the United States as well as England, yet if demanded by the British government for murder committed within its jurisdiction, it was the duty of the American government to deliver him up.

An unsuccessful attempt was made by the Republican party to repeal the sedition law, it being expected that some of the new members would vote for the repeal, either on account of the pledges they had given to their constituents, or from its known unpopularity; but their purpose was defeated by the dexterous management of their opponents,

Mr. Bayard, in an amendment to Macon's resolution for a repeal, proposed a repeal of that section of the law which related to libels, leaving them to remain "punishable at common law;" which amendment being carried by a small majority, the resolution thus amended was rejected by eighty-seven votes to eleven, the whole of the Republicans voting with a majority of the Federalists against a measure which recognized the odious and alarming doctrine that the United States Courts had jurisdiction of offences at common law, as well as those created by statute.

This subject of the English common law being a part of the law of the United States, in their confederate character, had been greatly discussed in the newspapers before the meeting of Congress, in consequence of an opinion given by Chief Justice Ellsworth in the prosecution of Isaac Williams, under an article in the treaty of 1794, which prohibits American citizens from

privateering against British vessels. The Chief Justice there recognized the doctrine that the common law of England was in force in the United States Courts, and, consequently, that the right of expatriation, which Williams claimed, was inadmissible; though several of the States expressly recognized it as a principle of natural law, growing out of the fundamental principles of Republican government. This doctrine, which would have carried the jurisdiction of the Federal Courts to an indefinite and alarming extent, so that no one could be certain of his legal innocence or safety, has been since avowedly abandoned by the Federal Courts.

One of the principal acts of Congress at this session was a bankrupt law, which, generally acceptable to the mercantile classes, would be particularly so at this time, when the losses sustained by foreign commerce had proved ruinous to so many. In consequence of the interruption to trade by the war in Europe, the articles of sugar, coffee, cotton, and tobacco had recently borne so low a price in England, that, in some instances, the proceeds of large shipments in these products were not sufficient to pay the charges of transport.<sup>1</sup>

This law, which was regarded as a privilege to the mercantile class by the other classes, and has always been viewed with some disfavor and jealousy in the Southern States, was now made a party question, and was generally opposed by the Republicans; but it finally passed by the casting vote of the Speaker.

By another act full powers were given to Commiss-

<sup>1</sup> A merchant of Virginia told me that, about this time, he made a shipment of eight hundred hogsheads of tobacco to England, and that he should have been a gainer if he had thrown them into the river on which they were transported to market. Occasionally the same heavy loss was incurred by shipments from the West Indies.

sioners to adjust the conflicting claims of Georgia and the United States to territory within the limits of that State. And a territorial government was organized for Mississippi, over a part of that territory.

There were claims by the State of Connecticut to western territory not contiguous to her borders, which were settled about this time, which may be briefly stated, without fully investigating their origin or merits. These were:

First. A portion of what is now within the limits of Pennsylvania, which Connecticut considered to be comprehended under her charter from Charles the Second.

Second. A part of what is now Ohio territory, and known as the "Connecticut Reserve," in consequence of the grant of Charles the Second. The lands in this district had been sold by the State to speculators, and the United States were desirous of putting an end to the claims of the State to sovereign jurisdiction.

A bill was accordingly introduced which confirmed the title to the soil in the purchasers, on condition that the State of Connecticut would relinquish to the General Government all her claim to jurisdiction west of the State; which comprehended not only the territory already mentioned, but also a portion within the limits of New York called "the Gore." This bill finally became a law, and these claims, so fruitful of irritating controversy, were permanently settled.

An act was also passed for preserving peace with the Indians, by which any attempt to induce those people to violate their treaties with the United States, or unite with any foreign power to induce the Indians to make war with the United States, or to violate their treaties, was punishable by fine and imprisonment. It was suggested by the course taken by William Blount.

The country north-west of the Ohio was divided into two territorial governments, one called Ohio and the other Indiana, which then comprehended all the remaining territory between the Rivers Ohio and Mississippi.

To meet the expenses of the year, a further loan of three and a half millions of dollars was necessary, besides an additional duty on sugar, and all manufactures of woollen, linen, or silk, were made to pay a duty of twelve and a half per cent. instead of ten per cent. The duties on wines were also raised.

By the report of the Secretary of the Treasury, the public debt was increased to a small amount — though his statement was assailed by Mr. Gallatin as presenting too favorable a view of the finances.

Before Congress rose, news arrived that Commodore Truxton had fallen in with another French frigate, which he engaged, and might have captured, if his ship, the Constellation, had not lost her mainmast, in consequence of which his adversary made his escape. This ship proved to be La Vengeance, of fifty-two guns, and five hundred men. Truxton's loss was thirty-nine men in killed and wounded; that of the French frigate was said to be one hundred and fifty. For this gallant action Congress voted Truxton a gold medal.

Let us now turn to the measures of the opposition to gain the ascendency over their opponents in the coming contest for President, particularly in Virginia, the headquarters of the Republican party.

The Legislature of that State, which met in December, subsequently elected Mr. Monroe Governor; and Mr. Madison, in the most numerous branch, the House of Burgesses, offered that celebrated report by which he aimed to prove, by a course of dispassionate argument, that the alien and sedition laws were palpable violations

of the Federal Constitution ; and that the common law of England was inoperative in the United States.

This elaborate report was ably combated by the minority in the Legislature, but it was finally adopted by a large majority, and probably by a much larger majority of the people. It had a wide circulation throughout the United States, and was thought to have contributed largely to the Republican majorities in Pennsylvania and New York.

But the measures of the Federalists themselves were well calculated to serve the cause of their opponents. Besides the general unpopularity of the preceding laws, of the direct and stamp taxes, of the public loan at the high interest of eight per cent., and of the addition to the regular force, which was denominated a standing army— all of which acts of legislation, at the preceding session, had afforded to the opposition plausible grounds of appealing to popular feelings against the ruling party— this effect had been rather increased than diminished by the same majority at the succeeding session. Thus they voted against the repeal of the alien and sedition laws, though it had the sanction of some of the most respectable of their own party. They at first refused to suspend their military preparations, when they were apparently no longer necessary, and even when, either to release the pressure on the treasury, or yielding to the indications of public sentiment, they proposed to suspend them, they refused to make a reduction in the number of officers proportioned to the number of men enlisted, as Randolph had proposed. They passed a bankrupt law by the vote of a Federal Speaker, though as many had voted against it as for it. Nor was this all. They were determined to put in force the sedition law, the legality of which was evidently questioned by a large

part of the nation ; and although they took the precaution to enforce it only against foreigners, whose attacks were most distinguished for scurrility, and who were less likely to have the public sympathy ; yet, even in these cases, the prosecutions excited more odium than terror—or, rather, they excited great odium, and no terror at all.

The sedition law was put in force against others besides Lyon. Thomas Cooper, a learned and able lawyer from England, who had been a pupil of Dr. Priestley, and had accompanied that philosopher to the United States, was, for some free strictures on the character and conduct of Mr. Adams, prosecuted for a libel this year,<sup>1</sup> was convicted, and sentenced to an imprisonment of six months, and a fine of four hundred dollars.

James Thomas Callender, a scurrilous party writer, from Scotland, was also prosecuted for libel in Richmond, Virginia, found guilty, and sentenced to a fine of two hundred dollars, and an imprisonment of nine months. Judge Chase, who presided at this trial, greatly heightened the popular odium against the law, by refusing to allow Callender's counsel to insist on the unconstitutionality of the law with the jury, by his overbearing demeanor, and his evident desire to convict the accused.

Duane, too, an Irishman, who, after the death of Bache, had become the editor of a leading opposition paper, the Aurora, was summoned before the Senate to answer for some offensive animadversions against that body, which were regarded as a breach of privilege. They held him guilty of contempt in refusing to appear before them, and ordered his arrest. They also ordered a prosecution against him for a libel, which, however, in

<sup>1</sup> In May.

the subsequent change of parties, never took place. The prejudice, which always more or less exists against these summary proceedings for contempt, was augmented by the fact that the counsel of Duane, Alexander J. Dallas and Thomas Cooper, withdrew from his defence, on the ground that the Senate would not allow them to maintain that the course of that body was unconstitutional; and with this privation of counsel was Duane pronounced guilty of a contempt, and fined for not appearing before the Senate.

When the effect of these measures is considered, it seems fair to infer that the Federal party efficiently, though unconsciously, co-operated with their political adversaries in procuring their own downfal; and that it is scarcely just to attribute, as many have done, the revolution of parties which ensued solely to the course pursued by Mr. Adams in renewing the negotiation with France. On the contrary, if his party had cordially supported him in that measure—if they had never given their opponents such colorable grounds for asserting that they did not mean to be restrained by the Constitution, as the alien and sedition law afforded—if they had not attempted to enforce the latter—if they had shown themselves prompt to relieve the country from the expense of an army when it seemed no longer needed, it is not seen how their opponents, then in a decided minority in Congress, and a still smaller one in the nation, could have obtained an ascendancy in time for the Presidential election.

The dissensions between the President and a majority of his Cabinet continued to widen and to extend themselves to their respective adherents; for the causes in which they originated continued to act. He tried to conciliate his political opponents, by denunciations of

Hamilton and others as a British faction; and the friends of that gentleman, including Pickering, Wolcott, and McHenry, were desirous of electing General Pinckney as the next President, in preference to Mr. Adams.

Mr. Adams's own efforts at conciliation had far more effect in losing him Federal votes than in gaining him Republican ones. The only advantage he obtained from this party was that they exhibited more forbearance in their strictures on him in the newspapers than they had done; but the leading members of the Federal party in New England—Ames, Cabot, Goodhue, Tracy, Wolcott, Dana—all gave a decided preference to Pinckney; and at last some of them even preferred Jefferson (whose principles they hated, and whose policy they opposed), as President, to one whose errors and foibles they regarded as the ruin of their party.

There were obvious difficulties in their favorite purpose—the election of Pinckney. As the Federal candidates must have a majority of the electoral votes throughout the Union, to elect either Pinckney or Adams, it was necessary to conceal the party divisions from the knowledge of the public, since that knowledge would be certain to give strength to their opponents, if in nothing else, by affording them matter of exultation, and be a cause of depression to the Federalists. Nay, the respective adherents of Adams and Pinckney, if they were once placed in open collision, would furnish to the enemies of both, materials to defeat the success of both. But, again, if these dissensions were known but to a few, how could it be managed that Pinckney should get more votes than Adams, when every elector was required to give two undiscriminating votes for President and Vice-President, without running the risk of having the same game played against himself?

These inherent difficulties could not easily have been overcome, and the concurrence of too many persons was required, to permit concert of action. The most that the friends of Pinckney were able to effect was a disposition on the part of the electors in New England to give to Pinckney an equal vote with Adams, and even that expectation was, as we shall see, in one instance disappointed.

Political animosity was never so great as at this period. With the sweets of power, and the emoluments of office — the ordinary stimulants of party zeal — other circumstances now concurred to give it unwonted force and bitterness. The Republicans, by reason of the alien and sedition laws, the recent doctrine of the common law, and Mr. Madison's able commentary, believed it was the settled purpose of their opponents to carry into effect their odious theories of government. The Federalists felt a more intense hatred of the French nation, from the late infamous conduct of its rulers; and though they had a great accession from the Republicans, yet the sentiments of the mass of that party remained the same, or rather, by the force of party reaction, received a new impetus. In this distempered state of the public mind, how was the relative strength of parties affected?

The five New England States, entitled to thirty-nine votes, were all on the Federal side, and would doubtless all be for Mr. Adams. New York was, for some time, debateable ground. There Hamilton's influence was greatest. His popularity was unbounded with the moneyed and commercial classes, and more particularly with the British merchants and agents, who were more numerous in New York than any other city ; and which fact gave some color to the charge of his being at the head of a British faction. Mr. Jay, then Governor of

the State, threw his weight (very great with his party) into the same scale. But, opposed to them, were George Clinton, a great favorite with the Dutch, and who had been Governor of the State; the Livingstons, a family numerous, wealthy, and of patrician influence; and, more than all, Aaron Burr, one of the leading members of the bar, who, cunning or bold, as the occasion required, was as skilful as unscrupulous in the arts of political intrigue and management, which he was indefatigable in using to gratify a boundless ambition. By his means, chiefly, aided by the Virginia report and resolutions, power had changed hands in New York; and the election in 1800 showed that the vote of that State was to be given to Jefferson and Burr. The last Legislature in that State was Federal, and were they called together before July to pass an electoral law, the Legislature might choose twelve Federal electors, which Jay was earnestly urged to do; but he was too scrupulous or timid to take a step which was evidently intended to defeat the will of a majority.

New Jersey was claimed by both parties, but with most confidence by the Federalists.

Pennsylvania had shown, by her election of Judge McLean Governor over Ross, of Pittsburg, the man of most influence among the Federalists, that the Republican party was the strongest. But her law for choosing electors, which had been by general ticket, had expired, and the first contest between the parties was the mode of choice which should then be adopted. The Republicans, confident of a majority of the voters, wished to revive the former law, by which the whole fifteen votes of the State would be secured to the Republican candidates; but, on the same account, the Federalists wished

the choice to be by districts, nearly half of which were known to be Federal.

At the last meeting of the Legislature, a bill for choosing by general ticket had passed the House of Representatives, but it failed in the Senate, in which there were a majority of Federalists. In this conflict between the two Houses, if neither gave way, the State would be deprived of its vote. To prevent which mischief, it was rumored that Governor McKean, whose boldness and decision made the rumor the more credible, meant to authorise the choice of electors under the expired law; and it was with a view to prevent or defeat this result that Ross had brought forward a bill, by which a committee to be chosen by both Houses was to determine the legality of the several electoral votes, and to settle all disputes concerning the election; which bill, in consequence of the disagreement between the Houses about its details, was defeated.

The Governor subsequently called the Legislature in December, when the same question occurring, the parties finally came to a compromise, by which eight votes were to be given by the House of Representatives, and seven by the Senate.

Delaware, entitled to three votes, was regarded as certain for the Federal candidates.

In Maryland, it was hoped by the Federalists that they would elect a majority in the House of Assembly, as they already had in the Senate, in which case the Legislature would have chosen eight Federal electors; but there being a majority of Republicans returned to the Assembly, the choice by districts remained unchanged, and the vote of the State would be divided between the two parties.

In Virginia, where the election had formerly been by

districts, they now, by a law of the preceding session, chose by general ticket, and the twenty-one votes of the State would be given to Jefferson and Burr.

North Carolina, where they still chose by districts, would give her votes between both parties.

In South Carolina, where the choice was made by the Legislature, the whole eight votes would be given to one party, but it was not known which.

In Georgia, having four votes, Kentucky and Tennessee three, there was no doubt that all the votes would be given to the Republican candidates.

The result was that, in New England and Delaware, Messrs. Adams and Pinckney were certain of forty-nine votes, and of seven in Pennsylvania. The Republicans were certain of getting, in New York, Virginia, Georgia, Kentucky, and Tennessee, fifty-two votes. While the votes of New Jersey and South Carolina, Pennsylvania, and North Carolina, amounting in all to forty-four, were the prizes for which the parties would be warm and eager disputants, and to which all their electioneering artillery would be directed.

After it was ascertained, in Maryland, that the opposition party had prevailed in the recent elections to the Legislature in New York, the President became seriously apprehensive about his re-election. "Every day," says McHenry, "increased his alarm on this subject, and distrust of those gentlemen near him who did not constantly feed him with news or hopes, flattering to his election. At times he would speak in such a manner of certain men and things, as to persuade one that he was actually insane."<sup>1</sup> And when he understood that the Federal members in Congress, after they heard of the election in New York, nearly all determined, each in his

<sup>1</sup> II. Gibbs's Wolcott, page 347.

own State, to cause the votes of their State to be given to himself and General Pinckney, without giving a preference to either, this arrangement heightened his apprehensions, and was regarded by him as an abandonment of his interests.

In an interview with McHenry he became, says the Secretary,<sup>1</sup> "indecorous, and at times outrageous." Among other complaints, he alleged that McHenry had eulogized General Washington, in his report to Congress, and had attempted in the same report to praise Hamilton. He had done nothing right, and must resign. The Secretary sent in his resignation the next day. A few days subsequently, on Pickering's refusal to resign, he was dismissed. Mr. Wolcott had not only been guarded and courteous in his demeanor towards the President, but he was known to be laborious and judicious as a financier, and could not well be spared. It was even said, by some of his own party, that Mr. Adams had been tendered the entire support of Maryland, if he would dismiss Pickering and McHenry; and whether he was thus influenced or not, it was known that the former of these gentlemen was particularly odious to the Republican party, and nothing was more likely to gain him friends with that party than Pickering's dismissal.<sup>2</sup>

One of Mr. Adams's modes of trying to make friends of the Republicans was to charge his Federal opponents with belonging to a British faction — this being a standing accusation by the Republicans against the Federal party generally, and against none more frequently than against Adams himself. This charge, so often repeated, at length reached Hamilton's ears, and was probably the more resented by him, in consequence of the marked

<sup>1</sup> II. Gibbs's Wolcott, page 347.

<sup>2</sup> Ibid. page 352-3.

slight of the President in not appointing him Commander-in-chief of the army, after the death of Washington. He determined to vindicate himself, and at the same time to show that General Pinckney far better merited the support of the Federal party than Adams.

As soon as his purpose was known, his warmest friends endeavored to dissuade him from it, and at all events, to publish nothing hostile to Adams with his name to it; but Hamilton, naturally frank and open, and knowing the additional weight that his name would have with most of the Federalists, refused to make his attack anonymous, but to avoid its obvious tendency to injure the party, proposed to confine the circulation of his book to a few friends. A copy, however, was obtained by Burr, after which secrecy was impossible.

The character he drew of Adams represented him as wanting in the most important requisites of the head of a nation, and as possessing a vanity and arrogance which made him odious to those within his power, and ridiculous to every one else. His weaknesses were exhibited with much skill, but were greatly exaggerated; and this book was apparently dictated full as much by personal resentment as by a wish to serve the cause of the country, or even of his party. Hamilton probably hoped that it would be sufficient to ruin Adams's chance for the vote of South Carolina, without, however, impairing Pinckney's, who was known to be popular in his native State. In this expectation he was disappointed.

Before Hamilton published his letter, he took the precaution to inquire of Mr. Adams if he had made the charge imputed to him, that there was a British faction in the country, of which Hamilton was the head. Receiving no answer to his inquiry, he again addressed Adams, and added that the charge against him, wherever

it originated, was a foul calumny. This letter being also unanswered, he forthwith printed his celebrated letter.

At length the great struggle between the two parties, which had been going on with different degrees of earnestness and asperity for ten years, was decided by the people in favor of those who most favored the extension of popular rights. The Federal candidates obtained the entire votes of New England, New Jersey, and Delaware, seven of the votes in Pennsylvania, five in Maryland, and four in North Carolina, making in all sixty-five votes for Adams; but as one of the votes of Rhode Island was given to Mr. Jay, to secure to Adams a majority over Pinckney, this gentleman received but sixty-four votes.

All the other votes were given to Jefferson and Burr; that is, twelve in New York, eight in Pennsylvania, five in Maryland, twenty-one in Virginia, eight in North Carolina, eight in South Carolina, four in Georgia, four in Kentucky, and three in Tennessee, making in all seventy-three votes.

The joy and exultation of the Republican party was not without alloy; for, as Jefferson and Burr had an equal number of votes, it devolved upon the House of Representatives to decide which was to be President, and which Vice-President; and the Republicans could not count on as many as nine States, the number which was necessary to an election. This circumstance also afforded some consolation to the Federalists, who soon began to form schemes for turning their power to account, either by making terms with one of the candidates, in return for their votes, or by taking the more reckless course of refusing to make any election, that Congress might, on the plea of necessity, choose a President *pro tempore*.

Before, however, the precise result of the election was known, as neither Pennsylvania nor South Carolina had voted, Congress met at Washington, the new seat of government; and on the twenty-second of November, the President delivered his opening speech to both Houses.

He informed them that, soon after the adjournment of Congress in May, he had had the public offices and property removed to Washington, the new seat of government, which was hereafter to be its permanent residence. He calls their attention to its local government.

The officers and soldiers of the provincial army had, pursuant to the act of Congress, been discharged. The judicial system was again recommended to their notice.

The treaty with Prussia had been concluded. The difficulties in the execution of the sixth article of the British treaty (indemnities) had not yet been removed.

The Envoys to France had been received by the First Consul with the respect due to their character. There was a prospect that their negotiation would be soon and satisfactorily terminated.

A system of national defence was earnestly recommended as the likeliest means of assuring to us peace, as well as security. A navy, adapted to defensive warfare, and the fortification of the principal sea-ports, were also recommended.

The speech was, in all respects, proper and dignified, and made no allusion to the probable result of the pending election.

The answers of both Houses were respectful, and in entire accordance with the sentiments expressed in the speech. But they were not adopted in the House of Representatives without opposition. On considering the

address, Mr. Nicholas, of Virginia, said he was opposed to the introduction of political topics in such addresses, and therefore should vote against it. It was carried by the small majority of thirty-six to thirty-two.

In a short time after the session opened, a fire broke out in the new war office, by which the building and all the papers it contained were destroyed. As the loss of the election by the Federalists was then ascertained, the more bitter and censorious of the party newspapers were not slow to insinuate that the fire had been purposely contrived to conceal the correspondence and other facts that would be injurious to some members of the preceding administrations.

Early in November, Wolcott had informed the President that he meant to resign his office, and that he wished his resignation to take effect on the last of December. This accordingly took place, and Dexter was appointed his successor, leaving the war office without a secretary.

In December, the convention which the American Envoys had made with France was renewed, and except that it preserved peace, it was satisfactory to no party.

Next to this object, and to arrest the aggressions of French cruisers on American commerce, the most important purpose of the negotiation had been to obtain indemnities for past depredations. To evade this claim, which the French negotiators did not conceal it would be impracticable for them to meet, they insisted on a restoration of the former treaties between the two countries, for the infractions of which treaties most of the claims for indemnities were founded. The American Envoys resisted this application, but offered a partial renewal of the treaties. This, however, was refused. Finding, at length, that they must either return to the

United States, leaving every matter of controversy unsettled, or secure the benefits of present peace and safety, they agreed to postpone these two questions of a renewal of the former treaties, as France wished, and the American claim for indemnities to a future day; and, in the mean time, to make such other stipulations as would be mutually beneficial. In accordance with these views, the debts due by the French government to citizens of the United States were to be paid, but the time and mode of payment were unsettled. Public vessels captured were to be restored, as was also captured private property not yet condemned. Commerce between the two countries was to be placed on the same footing as that of the most favored nations. Contraband articles were defined. Free ships were to make free goods, and goods on board enemy's ships, after the war was known, were liable to confiscation. Ships liable to search were to be visited by boats, the armed ships remaining beyond cannon shot. Merchant ships under convoy were not to be visited. With some prudent provisions as to the trial of prize vessels, and their exemption from duty. Privateers of a third power at war were not allowed to fit in the ports of the other.

The want of a stipulation for indemnities made a serious objection to this convention; but as it restored the pacific relations between the two countries, and promised immediate safety to commerce, it was acceptable to the Republicans and the mercantile interest generally, as well as to the President, to whom it was strongly recommended as justifying his course, and putting his Federal opponents in the wrong. But not so the Senate. They objected to the convention, both because it had not provided for indemnities, and had not released the United States from the inconvenient obligations of

former treaties. They had it under consideration more than six or seven weeks,<sup>1</sup> when it was ratified, with the exception of the second and third articles, which respected the revival of former treaties—in the place of which they proposed to limit the duration of the treaty to eight years. To this conditional ratification Mr. Adams, with some hesitation, consented.

The same day that Mr. Adams made his opening speech to Congress, Mr. Wolcott announced his resignation to the House of Representatives, and requested an examination of his accounts; at the same time expressing his grateful sense of the confidence and indulgence he had experienced from the Legislature.

A committee of seven, of which Otis was the head, was then appointed to examine into the state of the Treasury since it had been under the superintendence of Wolcott. It appeared, from their report, that the business of the Department had been conducted with "regularity, fidelity, and a regard to economy;" and that the financial concerns of the country were left by the late Secretary in "a state of good order and prosperity." It further appeared that seven millions of dollars had been borrowed at an interest of eight per cent., and about a million and a half of dollars at a like interest, with five per cent. advance on the nominal amount.

One of the important measures of this session was an extension of the judiciary system, probably less from the wants of the public, than from general considerations of party policy.

Wolcott, in a long political letter to Fisher Ames,<sup>2</sup> with whom he was in close and habitual correspondence,

<sup>1</sup> From December 15th to February 3d.

<sup>2</sup> II. Gibbs's Wolcott, page 316.

dated the twenty-ninth of December, 1799, says, “The steady men in Congress will attempt to extend the judicial department, and I hope that their measures will be very decided. It is impossible, in this country, to render an army an engine of government, and there is no way to combat the State opposition but by an efficient and extended organization of judges, magistrates, and other civil offices.” Hence originated his advice to the President to recommend, in his opening message of 1798, a revision of the judiciary system; and the repetition of that advice in 1800.<sup>1</sup>

The bill framed for this object proposed to create an intermediate judicial body between the District Courts and the Supreme Court. It divided the United States into twenty-three judicial districts, which were arranged into six circuits—commonly one to each State, but New York, Pennsylvania, Virginia, and Tennessee contained each two districts—and two courts, composed of one circuit judge and two district judges, were to be held every year in each district. The judges of the Supreme Court were to be exempt from the duty of circuit judges.

By this bill, there were to be created twenty-one new judicial officers, with the requisite marshals, clerks, and attorneys, the whole of which patronage was to be at the disposal of the President, after it had been shown that he had lost the popular confidence. The President did not hesitate to exercise that most important portion of it which consisted in the appointment of judges; and in some cases he had so little time left to make the selection, that it is said their commissions were not executed until the last hours of the administration, from which circumstance they obtained the name, in derision, of “midnight appointments,” and “midnight judges.”

<sup>1</sup> II. Gibbs's Wolcott, page 299.

They were all bestowed on Federalists, and most of them were rewards for party services. One of them, however, given to Wolcott, though a good appointment, was highly creditable to Adams's generosity, and must have occasioned to the object of it as much surprise as embarrassment.

An attempt was again made<sup>1</sup> to continue the sedition law, when both parties at first avoided the charge of inconsistency, by giving the same votes as they had given before they had changed places as to the power of using the law — that is, the Federalists still voted to continue the law, and the Republicans against it. The bill, however, failed on the third reading.

Mr. Ellsworth having resigned his office of Chief Justice, the place was offered to Mr. Jay, who had formerly resigned it; and he refusing, as was probably expected, it was given to Mr. Marshall, then Secretary of State, for whose able defence of him, in the case of Jonathan Robbins, Mr. Adams has shown a lively and lasting gratitude.

As soon as it was known that Jefferson and Burr had a majority of the electoral votes, and that their votes were equal, so that the choice of the Chief Magistrate would devolve on the House of Representatives, in which neither party had the requisite majority of States, the Federalists were busy in consulting how they should use the power which this inconvenient provision of the Constitution had thus unexpectedly cast upon them. Their first object would, of course, be to disappoint their political opponents by choosing Burr, who had been voted for only as Vice-President, and whom none of the party had ever contemplated as the competitor of their great favorite, Thomas Jefferson, "the man of the people."

<sup>1</sup> In January.

To effect this object, by which the wishes of the nation would be frustrated, was not obviously impracticable in the state of parties in the House of Representatives. Thus, four of the five New England States had Federal majorities, Vermont being divided. Delaware was represented by a Federalist. Maryland and South Carolina had Federal majorities, and Georgia had, at that time, but a single member in the House, and he belonged to the same party—making in all nine States, which was sufficient to elect Burr. At a consultation of the party, a majority agreed to vote for Burr, and most of the minority finally consented to go with their party. There was, moreover, a chance of other votes—New York and New Jersey, by a partial change in their delegations; Lyon of Vermont, and Claiborne of Tennessee, though preferring Jefferson, it was also thought not improbable might be brought over to vote for Burr.

As soon as this project was known, Hamilton, to whom Burr was peculiarly odious, both as a personal and political rival, was unwearied in his efforts to defeat it. He considered that all expectations of winning Burr over to Federal politics was vain, and that, actuated by an unprincipled ambition, he would use his power for his own exclusive advantage, and take revenge on the Federalists, long the objects of his implacable hatred: that Jefferson, though imbued with false principles, had still some character to lose: that, from his cautious temper, he would be less daring in innovation: and that terms might be made with him. These objections were set down to the account of personal rivalry, and were not sufficient to divert the Federal party from the favorite purpose of disappointing their adversaries; and the great body of the Federalists remained firm to their purpose.

Burr himself, before the returns were certainly known, but when an equality of votes was very probable, wrote to General Smith, of Maryland, with whom Jefferson was then a fellow-boarder, that he did not mean to be a competitor with Mr. Jefferson, whom he knew the people intended to make President; and he authorised Smith to make known this declaration.

Before the electoral votes were counted, a resolution passed the House of Representatives that, in case no candidate had a majority of votes, the members would return to the House, and there continue, without proceeding to any other business, until a President should be chosen.

On the eleventh the balloting began, when it appeared that Jefferson had eight States—New York, New Jersey, Pennsylvania, Virginia, North Carolina, Georgia, Kentucky, and Tennessee; Burr, six—Massachusetts, New Hampshire, Connecticut, Rhode Island, Delaware, and South Carolina; and two, Vermont and Maryland, were divided. This result was very different from that which the more sanguine or reckless of the Federalists had first expected. Several of their party, unwilling, from scruples of conscience or prudence, to thwart the known wishes of their constituents, for no higher object than to gratify party animosity, refused to vote for Burr. These were Dent, of Maryland, by whose vote for Jefferson the ten votes of Maryland were equally divided; Spaight, from North Carolina, and the single member from Georgia, by whose votes Jefferson obtained those two States.

The ballottings were continued until the noon of the following day, twenty-nine times, with precisely the same result; and when so much appeared to be at stake, members who had been otherwise too sick to

leave their beds were brought in the House to vote, and to remain in that scene of confusion all night. After the next day, recesses were taken by the House, which afforded relief to the members, without directly violating the resolution of the ninth instant; and in the five following days five more ballottings produced no change.

The nation looked on this scene with intense anxiety, and the Republicans with no little indignation, to see the known purposes of the people openly disregarded by their Representatives; and rumors of wild and lawless projects by those who showed so little respect for the popular will, began to be circulated and believed. It was said that the Federal party, availing itself of its majorities in both Houses, and of a necessity which itself had created, meant to appoint a President; and it was even said that Chief Justice Marshall was the person to be appointed. The Governors of Pennsylvania and Virginia, both warm supporters of the Republican party, thought it best to be prepared for such a daring usurpation; and, on consultation, it is said, formed their determination to march an adequate force to Washington, and to vindicate the Constitution by the dangerous expedient of open violence.

But this perilous and disgraceful scene, so obviously leading to civil war, was fortunately prevented. Besides those Federalists who have been mentioned as preferring to sacrifice the wishes of their constituents to those of their party, there were some others, who, from yet larger views of patriotism, were determined to exercise the power they possessed for preventing any such rash and unauthorised measures by voting for Jefferson when it became necessary. These were Morris, of Vermont, whose Federal vote had neutralized that of Lyon; Bayard, who alone represented Delaware, which had a

vital interest in preserving the Federal Union; with Craik and Baer, of Maryland — any one of whom could at pleasure give Mr. Jefferson a vote, which was sufficient to put an end to the struggle.

After the thirty-fourth ballot, Bayard, acting for himself and his three associates, called a meeting of the Federal members, and they finally came to the conclusion that, as Burr could not be elected, Jefferson must be.

The next day,<sup>1</sup> the thirty-fifth ballot resulted like the preceding; but on the thirty-sixth, Morris, of Vermont, purposely absented himself, by which Lyon was able to give the vote of the State to Jefferson; Craik and Baer, of Maryland, put in blank ballots, which also gave Jefferson another vote, so as to raise his number to ten out of the sixteen, by which he was elected President, and Burr Vice-President, for the next four years.

After the election was terminated, there was little of moment done in Congress during the remaining fortnight of the session. In the laws provided by Congress for the District of Columbia, the code of Maryland was adopted for the portion that was formerly part of that State, and the code of Virginia for the residue of the District. Congress created the required courts for both portions.

By another bill, all the vessels no longer required for the public service were directed to be sold, except thirteen of the larger size, and in the best condition. All the officers were to be discharged except nine captains, thirty-six lieutenants, and one hundred and fifty midshipmen, who were entitled to half-pay when not in actual service. Timber was on hand for the construction of six seventy-fours; and the ground had been purchased for the six navy-yards of Portsmouth, Boston,

<sup>1</sup> February 17th.

New York, Philadelphia, Washington, and Norfolk. Half a million of dollars was appropriated to the finishing the six seventy-fours.

The Treasury office being also consumed by fire during the session, the suspicions against officers of the government, of wishing to destroy damning evidence against them, were greatly increased ; and though, on the investigations which were then made, and for aught that has since appeared, nothing came to light to strengthen such suspicions, yet, when it is considered how improbable it was, on the doctrine of chances, that this destruction of the official correspondence, or perhaps of their abuse of trust, at the very time it would be most wanted, to prevent its falling into the hands of their enemies, and that, not of one office, but of two offices, by two unconnected fires, one can scarcely wonder that party animosity should have thus manifested itself.

An act was passed at this session for taking the second census of the inhabitants of the United States.

To those who speculated, at a distance, on the permanence of the Federal Union of these States, and to thousands of those of their own citizens who take counsel from their fears, it seemed as if the United States, in being deprived of Washington, had lost the sheet-anchor of their peace and safety. Justly inferring that no man was likely again to appear who would have the same weight of character, or would exercise his influence with the same purity, disinterestedness, and sound judgment, they regarded the country as hereafter destined to be the sport of rival factions, who, in their struggles for power and pre-eminence, would be certain to disturb the peace and order of the government, and perhaps destroy its existence : and these gloomy anticipations were now extended to a large portion of the Federal party, when

the political power of the country had passed into the hands of men believed to be eager for innovation, and some of them even ripe for revolution.

But time soon dispelled these visionary fears. It was found that the country could safely rely on its own inherent vigor and health, without being dependent on any physician, whatever might be his skill. Similar predictions were subsequently made after the series of able patriots who had conducted the Revolution to independence had passed away; and still later, of those who were born in that hallowed era; and they have been all equally falsified. It is because whatever the country may owe to individuals (and this debt is often very great) is yet insignificant, compared with what it owes to its political institutions, and to the habits, character, and circumstances of the American people.

If Mr. Adams had inspired little respect by the exercise of his power as President, he bore the loss of that power with still less dignity. On the fourth of March, he left Washington at an early hour, unwilling to witness the triumph of a successful rival — of one whom, with more than his wonted self-complacency, he had declared to have had no higher aspirations than to be his "lieutenant." It was said that his chagrin and mortification descended even to womanish tears, thus manifesting that want of true elevation of mind which had characterized him through life.

When we recollect the zeal and unanimity with which the leading Federalists of New England pressed Mr. Adams's claims to the Presidency, after Washington's resignation, and that the same men, after his election, regarded him as habitually egotistical, boastful, envious, suspicious, childishly fond of display, wavering and capricious; and wishing to supersede him by General Pinck-

ney, of South Carolina, we might say of him as Tacitus said of Galba,<sup>1</sup> that they all would have thought him fit for the Presidential chair, if he had never been raised to it.

But let not these personal foibles of Mr. Adams make us underrate his virtues and talents, or forgetful of his services. At a critical moment of the Revolution, he was among the foremost to propose independence, and was one of the most fearless and efficient in supporting it. On this occasion, as on many others, he showed the most far-reaching sagacity. It is not as a President of the United States, but as a patriot of the Revolution, on which his reputation must mainly rest, and for which he may claim the lasting veneration and gratitude of his countrymen.

It was attempted, at this session, to execute the resolution which Congress had passed soon after the death of Washington, to erect a mausoleum to his memory. A bill had, indeed, been introduced at the preceding session, to construct a marble pyramid for this object, but it had been opposed by Republican members as an useless expense. His best monument, they said, was in history, and in the hearts of his countrymen. A similar bill, however, passed the House, and two hundred thousand dollars were voted for its execution. This sum was reduced to one hundred and fifty thousand dollars by the Senate. This and other amendments, together with those subsequently proposed by the House, prevented the plan from being matured, and though occasionally adverted to, was never efficiently acted on afterwards.

The day after the President ratified the convention

<sup>1</sup> Et omnium consensu capax imperii, nisi imperasset.

with France,<sup>1</sup> as advised by the Senate, he appointed Mr. Bayard Minister to France, to conclude the negotiation ; but he, with becoming delicacy and sensibility to the value of character, declined to accept the appointment, on the ground that, after his agency in promoting the election of Jefferson, in preference to Burr, he was unwilling to hold an office of emolument at his pleasure. The place was then left vacant by Mr. Adams, to be filled by his successor.

At this period, when a revolution of parties was about to place the political power of the country in new hands, we may suspend our general narrative to take a retrospect of the measures of that party on which a constitutional majority had passed its sentence of condemnation ; and review its merits and its errors, whether injurious to the interests of the nation, or its own.

This duty of history is undertaken with some hesitation. It is extremely difficult for one under a party bias to decide with fairness on party questions, and from such bias what contemporary is entirely exempt ? The historian, like others, looks at men and things through the same cloudy medium by which they are exhibited in more pleasing or distorted forms than the reality — so that the same object is approved or condemned, according as it belongs to one party or the other. Thus, take the characters of Alexander Hamilton and Thomas Jefferson, as exhibited by their friends or their enemies, and these portraits of the same individuals scarcely have a single feature in common. So of the French revolution, and some of its memorable incidents. With one set of men, all was right ; with another, all was wrong. So, too, the British treaty was at once fair and advantageous in the eyes of the Federalists ; but in those of their

<sup>1</sup> February 16th.

opponents, it was humiliating and detestable. Such is the law of human passion; it tinges every object with its own peculiar hue, and even converts defects into beauties, as the female politician thought that Wilkes did not squint more than became a gentleman.

The number of public characters about whom all men are agreed is indeed astonishingly few. There is but one opinion about George Washington, or Benedict Arnold; but where is there another conspicuous actor in the Revolution, about whose merits or faults all are united? The great mass of them were made up of virtues and weaknesses, of good and bad impulses, of right and wrong judgments; and these opposite qualities are exclusively regarded by different sets of men, who form their judgments accordingly.

Is then truth, impartial truth, utterly hopeless in the great mass of occurrences and individuals that are not of this pronounced indubitable character? It is difficult, certainly, but perhaps not unattainable. To have any chance of success, one must endeavor to disincumber himself of the feelings of the day, and rising above the region of mists through which he must see objects on the same level with himself, look down upon them from a height whence their relative bearings and magnitude can be seen with distinctness and accuracy.

Nor is party prejudice the only disturber of our political judgments. Composed, as the States of this Union are, of communities which differ in pursuits, manners, and ways of thinking on many points, they are exposed to strong local prejudices against each other. Thus, how many persons in the South have formed their opinion of the people of New England from the knavish pedlars they have seen, or the wooden nutmegs they have heard of. How many of them, too, regard the Southern men as

unfeeling slave-drivers; or the men of the South-west as semi-barbarous, from the familiar use of the dirk and the bowie-knife. Such of these false judgments as are the result of human pride will always more or less continue; but such as arise from their ignorance of one another, their growing intelligence and better acquaintance with each other may be expected to dispel.

A small portion of that philosophy which history requires, will teach us that, as in all human concerns, there is blended good and evil, so in all parties large enough to embrace a considerable portion of the community, there is a mixture of truth and falsehood, of wisdom and folly, of good and bad feelings. In the fundamental principles of both these parties there is much that is good and wise; and it is only in ~~there~~ being pushed to extremes, or in their being too exclusively regarded, that they lead to error. Thus, as has been previously mentioned, the Republicans cherish liberty with ardor—~~are~~ impatient of civil restraint, and jealous of privileges and inequality. The Federalists, seeing the abuse of these popular principles, the outrages and injustice of licentiousness, look to the advantages of law and order, and wish to secure them by strengthening the hands of government. Such is the foundation of the two great parties which divide the United States, and which, under whatever names they are designated, will always be found in every country in which the people are enlightened enough, and free enough, to meddle in the affairs of government. Each of these parties tends to correct the errors of the other; and each is likely to acquire the ascendency when the excesses of its opponents have produced a reaction. It is thus that every excess tends to raise up its own corrective. It is, therefore, not to be expected, nor does the history of the past warrant us in

expecting, that either party can maintain a permanent sway. We find in England, whose institutions are most like our own, that the power of the government is alternately wielded by the Whigs and the Tories, and that there has been a similar alternation of power between the liberal and the conservative parties in this country. Thus, for the first twelve years, the conservatives ruled. Then, for sixteen years, the Republican party. Mr. Monroe's administration, though he had always been ranked as one of the same party, was, in its measures and policy, essentially conservative, as may be seen by a reference to his Cabinet. Mr. Adams, who was always conservative, was Secretary of State. Mr. Crawford had distinguished himself by his support of the Bank of the United States. Mr. Calhoun's views of national policy were, at that period, similar to those of Alexander Hamilton. Judge Thomson and Mr. Wirt were also essentially of the same party. Mr. Adams's administration, added to Mr. Monroe's, made twelve years more of conservative power. In General Jackson's and Mr. Van Buren's administrations, their opponents exercised power for the like term. The Whigs then prevailed, and elected Harrison; though, by his death, the power of the government, which devolved on the Vice-President, was thrown into the hands of the opposite party, with whom it continued during Mr. Polk's administration — so as to make twenty consecutive years of Democratic sway. General Taylor's and Mr. Fillmore's Whig administration of four years then followed; which was succeeded by the Democratic rule of General Pierce. Thus we see alternations of political power during sixty-four years. The Democratic party have prevailed for thirty-six years, and the conservative for twenty-eight; but if the will of those who had elected General Harrison had

prevailed, as it would have done, but for his death, each party had ruled for thirty-two years; which seems to show that the principles of both are equally congenial to the sentiments of the American people, who are friends to law and order, no less than to civil freedom; and who aim to combine the highest authority of their sovereign aggregate will with the utmost liberty of individuals. Against the opposer of this will—that is, the violator of the law—the preventive, the remedial, and avenging power of the government is resistless. To all others, that power is as little felt or seen as the vital air we breathe.

Of the measures of the Federal party during the administrations of Washington and Adams, some deserve our unqualified approbation; and others our judgment, now free from bias, and aided by new lights, is obliged to condemn.

The organization of the Treasury Department, and the various checks contrived to prevent negligence or defalcation, or detect them if not prevented, are of the first class. They have received no material modification since, or if they have undergone any change, as in the use of a bank, it is probably not for the better. The judiciary and post-office system are also substantially the same.

The fundamental regulations of the mint, in having no seignorage, and a double standard, must be unhesitatingly reprehended. One of these errors aggravates the mischiefs of the other. If we had adopted a single standard, there could have then been no constant and general reason for exporting one of the precious metals in preference to the other, though we had no seignorage; and with a double standard, the export of the undervalued metal, which is now sure to take place,

would have been prevented by a seignorage. The difference between the relative prices of gold and silver in the market and their relative prices by law must exceed the seignorage, before the export of the undervalued metal can be profitable.

In the establishment of a permanent navy, and of the military school at West Point, both of which the Republicans opposed, great national objects were effected, at no cost of public liberty, or of public burdens which the country could not well bear. Mr. Gallatin's speech, against the policy of a navy, which was deemed conclusive by his political associates, has been completely refuted by time.

The assumption of the State debts must be condemned on the score both of equal justice among the States, and of financial prudence. But for this assumption, the excise had not been necessary, and the first insurrection in Pennsylvania had been prevented. Perhaps it was defensible on the ground of its accommodation to the States most heavily indebted to the whole confederation.

In the disposition so generally manifested to ape the forms of European courts—in the levees—speeches to the Legislature, with adulatory addresses in reply—in putting the President's effigy on the coin, and his name to every judicial writ, the Federalists showed a far inferior sense of true dignity and self-respect than their opponents.

In attempting to elect Burr President, the same party is obnoxious to the charge of seeking to avail themselves of the forms of the Constitution to frustrate the wishes of a constitutional majority. Had the body of that party in the House of Representatives been as conscientious as a few of them were, they would have elected Jefferson on the first ballot. But Burr was a Northern man, and that was claimed to be sufficient justification for the New

England members to prefer him; yet most of the same men preferred Pinckney to Adams: besides, the vote of South Carolina, which was given to Burr, would have elected Jefferson, who was preferred by three-fourths of the State.

As to respect for the Constitution, this party showed the same disposition which has been manifested by all parties when in power, to make, by forced and refined constructions, that instrument bend to a favorite purpose.

This course of the Federalists, besides the general objection of lessening the reverence for the fundamental laws of the Union, was fatal to themselves. It can scarcely be doubted that, if they had not passed the sedition law, and kept it before the people by prosecutions under it, and by maintaining the binding force of the common law of England in the Federal Courts, the Federalists would have retained their ascendancy in New York, and would have had a larger number of votes, both in Maryland and North Carolina, and possibly have carried South Carolina.

But the country having derived substantial benefits from the conservative principles of the Federalists, after checking them in their efforts to carry their principles too far, had decided on trying the more liberal and popular doctrines of their opponents. How far it succeeded, and how far it failed, we shall endeavor to show in the succeeding chapters.

## CHAPTER XI.

### JEFFERSON'S ADMINISTRATION.

#### FIRST TERM.

1801—1803.

ON Mr. Jefferson's election, the Republican party throughout the Union were wild with joy, which was the greater from their fears that the Federalists would execute their rumored project of appointing, under the plea of necessity, a President by act of Congress, or, what was almost as distasteful, would effect the election of Burr, who would then be a President made by their political opponents, and one in whom they had now lost confidence.

The interest with which the nation had regarded the proceedings in Congress was now concentrated on the new President, to whose expected inaugural address both parties eagerly looked to find materials to justify themselves for the course they had respectively taken in his election.

On the fourth of March the President conformed to the example of his predecessors, by repairing to the Hall of the Representatives, and there, in the presence of the members of both Houses, who had not returned home, he took the oath of office, administered by Chief Justice Marshall, and delivered an address to the nation. He here aimed to indicate the general principles by which the government was to be administered; and while he was

careful to say nothing inconsistent with the known sentiments and views of the Republican party, he evidently was desirous of conciliating his opponents. He said that "though the will of the majority is, in all cases, to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights, which equal laws must protect, and to violate which would be oppression." After denouncing political intolerance, he added, "We have called by different names brethren of the same principle. We are all Federalists—all Republicans."

In opposition to the opinion of some, that the government is not strong enough, he maintains that it is the strongest government on earth, for it is "the only one where every man, at the call of the law, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern." After eulogizing the benign religion, which, under various forms, inculcates "honesty, truth, temperance, gratitude, and the love of man," he says, "a wise and frugal government is necessary to close the circle of our felicities."

He then declares the principles upon which he should shape his administration: "Equal and exact justice to all men;" "peace, commerce, and honest friendship with all nations; entangling alliances with none." He regards the State governments as the most competent administrators of our domestic concerns, and "the sure bulwarks against anti-republican tendencies;" the General Government as "the sheet-anchor of our peace at home, and safety abroad;" and "absolute acquiescence in the decisions of the majority, as the vital principle of a republic, from which there is no appeal but to force, the vital principle and parent of despotism."

He recommends a well-disciplined militia, till regulars may relieve them, the honest payment of our debts, and

sacred preservation of public faith, with other undisputed principles of liberal policy.

He concludes with expressions of modest diffidence of himself, and a hope of indulgence for his “unintentional errors.”

Though written in an easy, flowing style, it indicates very careful preparation, and in many passages his views are expressed “with a brevity and force which soon gave to them the currency of popular maxims;” yet its style, no more than the Declaration of Independence, escaped criticism, from which the tone of conciliation towards the Federalists did not redeem it with his most active political opponents; and it may be questioned whether he had not gained less with them by this very liberality, than he lost with his own friends, many of whom, warm with recent party contests, thought he would more faithfully have represented those who had elected him, by exposing and denouncing the political sins of their adversaries. Though most of the Republicans, under the bias of party feelings, or obeying the laws of party discipline, expressed unqualified approbation of this document, a few did not hesitate, among friends, to censure its conciliatory tone as both inconsistent and impolitic.

His Cabinet consisted of his friend, James Madison, Secretary of State; Henry Dearborn, of Massachusetts, an officer of the Revolution, and a leader of the Republican party in that State, Secretary of War; Levi Lincoln, of the same State and party, was made Attorney-General; Chancellor Livingston, of New York, who, now being sixty years of age, was disqualified by the Constitution of New York from continuing on the bench, was appointed Secretary of the Navy, but he declining, the place was subsequently given to Robert Smith, a highly-respected lawyer of Baltimore. The place of Secretary

of the Treasury was not then filled ; but public opinion had anticipated this appointment for Mr. Gallatin, in consequence of the thorough knowledge he had shown of American finances, by a publication made five years before, and subsequently confirmed by his speeches in Congress ; but probably it was deemed prudent to defer his nomination until the adjournment of the Senate, as a majority of that body, from their known hostility to Gallatin, might have refused their sanction. A few weeks later the appointment was made, and experienced no opposition in the Senate, which had, in the mean time, by an accession of new members, acquired a Republican majority.

One of the first grounds of attack of the Federalists on the new President was furnished by removals from office. Though the cases were rare, they were vehemently denounced, not only as evidences of a vindictive and persecuting spirit, but as utterly inconsistent with the liberal professions made in the inaugural address. The removal of the collector of New Haven, Goodrich, who had been a member of Congress from Connecticut at the preceding session, was thought a favorable occasion to bring this charge of intolerance to the notice of the public. Goodrich was very popular with the merchants, because, as the Republicans said, he was more indulgent to them than was consistent with his duty to the public ; and Bishop, appointed to succeed him, was near eighty years of age, with his sight greatly impaired, and not otherwise qualified for the office by his previous habits and pursuits. So said the remonstrance from New Haven against Bishop's appointment, which was signed by near a hundred of its inhabitants.

The President, smarting under this first act of war on his administration, and wishing, moreover, to defend

himself from the charge of inconsistency, which, often urged by the opposition press, had been repeated by the addressers, did not disdain to vindicate himself against this small body of accusers, before the forum of the public.

He said that, as to Bishop's qualifications, he at this very time held several public offices, one as a Judge of Probate, and another as Chief Judge of the Common Pleas, to both of which he had been appointed by the Legislature in the preceding May. These facts were sufficient proofs of his capacity to discharge the far humbler duties of collector, with such aids as he could command. That the Federalists now held all the public offices, and unless this was deemed a matter of right, which would not be pretended, how was the injustice to be corrected, except by removals, as few died, and none resigned. He said that Goodrich ought not to have accepted the office at the time he did,<sup>1</sup> without knowing whether he had the confidence of Mr. Adams's successor. He lamented that unessential differences of opinion should be deemed to disqualify men from offices of trust; but the blame of this unjust course must fall on those who began the injustice, and not on those who seek to correct it. Had he found a moderate share of offices in the hands of the majority, he would have waited for time and accident to correct the inequality; but that their total exclusion called for more prompt corrections. This being done, he should return with joy to that state of things when the only questions concerning a candidate shall be, is he honest, is he capable, is he faithful to the Constitution? It was some time before he made any removals whatever, and, called upon to decide between his own feelings of liberality and sound policy on one side, and the clamor

<sup>1</sup> February 19th.

of his own party for removals, he adopted a middle course, for which he laid down the following principles in making removals: First. To remove all who had been appointed by Mr. Adams after the result of the election was known. Second. All who had been guilty of misconduct, or in using their influence to affect elections. Third. Not to remove any for mere differences of party, except the attorneys and Marshals of Federal Courts.

Chancellor Livingston, though he refused the office of Secretary of the Navy, accepted that of Minister to France; but, wishing to remain in the United States until the late Convention was finally ratified, it was sent by a special messenger, Mr. Dawson, one of the members of Congress from Virginia, and the half-brother of Mr. Monroe.

Thomas Paine, whose popular writings had exerted a great influence in uniting the colonies to resistance in the beginning of the disturbances which led to the Revolution, had been some years in France; and, in a correspondence which he had carried on with Mr. Jefferson, he had expressed a wish to obtain a conveyance to the United States in a national ship, to avoid the chance of being captured and carried to England, where he was subject to a criminal prosecution. Mr. Jefferson accordingly, when he sent over the Convention, wrote to Paine by Dawson, and granted him the conveyance he sought, if he could be ready to depart at such short warning. The letter compliments Paine for his services in the cause of the United States, and his letter is, throughout, cordial and friendly.

This letter having been noticed in a Paris newspaper, it became the theme of bitter reproach on the part of the Federalists, who regarded it as a great scandal that

so signal a mark of courtesy from the President of the United States should have been bestowed on the man who had assailed Christianity in one work, and reviled General Washington in another, because he had not interfered to obtain his release from a French prison; and who maintained that these very publications, which had offended all good men, had recommended their author to Mr. Jefferson. He rested his justification on Paine's services in the Revolution; but as all of his party did not approve the measure, it is not improbable that he would have declined it, had he foreseen that his letter would have been made public. It was certainly dictated by no regard to his own interests or popularity.

The policy which had been adopted of paying an annual tribute to the Barbary States, had the natural effect of encouraging their lawless exactions. The Bey of Tripoli, finding that Algiers had been successful in this course, followed the example, and threatened war if his new demands against the United States were not complied with. Commodore Dale was therefore sent off to the Mediterranean with a squadron of three frigates and a sloop-of-war, and when he arrived off Tripoli, he found that the Bey had carried his threats into execution, by declaring war against the United States. His city was then blockaded by Dale, and a Tripolitan polacre, of fourteen guns, was captured.

The new President was not long in giving proof that he meant to carry into execution his professions of public economy. One of his first evidences of this purpose was to lessen the number of the diplomatic representatives of the United States. He thus recalled Mr. John Quincy Adams, on the ground that the object for which he had been appointed—to make a treaty with Prussia—having

been fulfilled, a Minister to that country was no longer required.

In the summer, Mr. Jefferson was employed in carrying into further execution his system of retrenchment and reform in the government. To this end, he dismounted a corps of cavalry raised during the last administration. He discharged four hundred marines, as no longer wanted for the public service.

To show his sense of the Sedition law, and his respect for the Constitution, in all cases in which prosecutions had been commenced under that law, he directed the Attorney for the United States to discontinue them; and where persons convicted were undergoing punishment, he arrested it, by the exercise of his pardoning power.

At this time, the returns under the second census came in, by which it appeared that the gross population of the United States was 5,305,925, showing an increase, in ten years, of thirty-five per cent. It was thus distributed :

The white population was.....	4,304,489
The free colored " " .....	108,395
The slave " " .....	893,041
Total.....	5,305,925

The increase of the slave population was not quite twenty-eight per cent.

When Congress assembled, at the time appointed by the Constitution, the first Monday in December, the President, according to his previous purpose, instead of a speech, as had been the practice of his predecessors, addressed the two Houses of Congress in a written communication; but before the message was delivered, in a note to the Speaker of each House of Congress, he adverted to the change he had adopted, from a regard to

the convenience of the two Houses, to the economy of their time, and to their relief from the embarrassment of immediate answers on subjects not yet fully before them.

He congratulates them on the recent restoration of peace in Europe, and trusts that the claims of the United States for past wrongs will now meet with just compensation.

He says that peace with the Indians exists, and that their progress in civilization has increased their numbers, as well as comforts.

After advertizing to the squadron he had sent to the Mediterranean, and to the recent census, he tells them that the revenue had increased still more than the population, so as to warrant a repeal of all the internal taxes, and yet leave enough to defray the expenses of government, the interest of the public debt, and to discharge the principal, sooner than the law or general expectation had contemplated. This view was founded on a reduction of the habitual expenditure; for which purpose, the expenses, civil and military, would need revisal. He intimates that the Federal organization is too complicated and expensive. He has already exercised retrenchment in matters within his discretionary powers. He recommends specific appropriations, whenever practicable, and other cautionary guards in the disbursement and accountability of the public money.

He thinks that the military establishment should be reduced to the number of men required for garrisons, and that the militia should be relied on for the national defence: that a small naval force would probably continue to be necessary in the Mediterranean, where the Barbary powers still showed symptoms of hostility. Further appropriations for this service had better be expended

in providing such materials as can be safely kept. He submits to the Legislature whether so many navy-yards are required as the law has provided. A similar suggestion is made as to fortifications.

The judiciary system is also brought to their notice. He had ordered information to be given to Congress to enable them to judge of the proportion which the institution bore to the business it had to perform; and he also submits whether the impartial selection of juries is sufficiently secured.

He recommends a revision of the naturalization law, and an abridgement of the term necessary for citizenship. "Should we," he asks, "refuse to the unhappy fugitives from distress that hospitality which the savages of the wilderness extended to our fathers arriving in this land? Shall oppressed humanity find no asylum on this globe?" He concludes with an exhortation to prudent and temperate discussion, so auspicious to rational conclusions, and so promotive of that progress of opinion "which is tending to unite them in object and will."

The purposes and opinions here indicated were much more in unison with the sentiments of his party than those in his inaugural speech had been. In like manner there were several parts of the message which were far more distasteful to the Federalists, and revived all their original fears of the new administration. These were the proposed reduction of the military and naval power to the minimum point; the diminution of the revenue by the repeal of all the internal taxes; the reduction of offices and officers, which would be almost exclusively felt by the Federalists; the change in the naturalization law; and lastly, the review of the judiciary establishment, with a view to its reduction, by which not only many leading Federalists would be deprived of lucrative

and honorable appointments, but the Constitution itself, which intended those offices to last during good behavior, would be violated.

With one voice, then, the whole Federal press assailed the message, and endeavored to arouse the lovers of order and law, the friends of the Constitution, to the dangers that now threatened the Federal fabric, which had been framed with such wisdom and care, had been carried into execution with such prudence and firmness, and which had so signally promoted the prosperity and happiness of the people.

But in opposition to these plausible topics, the benefits of public economy could be understood by all, and they were equally appreciated by the rich and the poor. Against its solid and obvious advantages, the speculative dangers which were predicted availed but little ; and it may be safely pronounced that the more lively interest of those who gained by the expenditure of the public money, to which Federal policy appealed, was greatly outweighed by the weaker interests of the far greater number whom the Republicans conciliated by retrenchment. On this account, supposing Hamilton and Jefferson to be both actuated by considerations of policy, and not by their respective opinions of good government, the course of Jefferson was the wiser and more efficient of the two.

The message was followed by reports from the Heads of Departments, the most important of which was that of Mr. Gallatin, from the Treasury Department. His statement of the amount of the public debt differed from that of his predecessor, as had been anticipated. According to him, the public debt would be, on the first of January, 1809, as follows :

Unredeemed amount of old six per cent. and deferred stocks.....	\$27,142,357 21
Three per cent. stocks.....	19,019,481 56
Louisiana stock.....	11,250,000 00
<hr/>	
Total.....	\$57,411,838 77

In all respects, his message but echoed the sentiments of the Republican, or (as some called it) the Anti-federal party in Congress, and they soon diligently prepared to carry out into legislative enactments such changes and economical reforms as the Executive had suggested.

One of the first acts of the Legislature was a new apportionment of the members of the House of Representatives under the last census. The number of thirty thousand was proposed to elect a member, and this was preferred by most of the Republicans, as likely to increase, by the large addition it would make to the members of the House, the influence of the popular branch ; but the Federalists generally preferring the existing number of thirty-three thousand, and a few of the Republicans joining them, that ratio was adopted. Even by this, the number of Representatives would be increased from one hundred and six to one hundred and forty-one members.

Of all these changes, no one was regarded by either party to be of equal importance with that respecting the judiciary.

The late addition of twenty-three Federal judges had been loudly complained of by the Republican party. It was said that such an addition to the number of courts, when their business was decreasing, was obviously a prostitution of the legislative power for the purpose of providing for political partizans, and this, too, after they had lost the confidence and favor of the people ; and

though such courts had been required, it would have been decent to have allowed the party coming into office, by the suffrages of the people, the power of filling part of the places, if not all.

There was much force in these objections; but the desire to punish political opponents was doubtless, with many, the ruling motive. The question of constitutionality, however, stood in the way of their purpose, and all the acumen of legal criticism was put in requisition to overcome, or at least to answer the constitutional objections, so as not to bring discredit on the Republican party. The principle that the judges should be independent of those who appointed them, had been a favorite maxim among lawyers both in England and the United States, and it was deemed essential to the supremacy of law over private interest, or influence, by men of both parties. It required, then, no little boldness to assail a principle so generally approved, and hitherto, perhaps, most cherished by the popular party, and those most jealous of power.

Many of the Federalists, who were not immediately interested in the decision of the question, were not unwilling to see the judiciary act repealed by their adversaries, under the belief that the repeal would be regarded as a breach of the Constitution by the members of the Republican party, and that it would alienate some from the majority, whom they thus saw unscrupulously overleaping all constitutional restraints, to gratify their vindictive feelings towards their opponents.

The subject was opened, on the sixth of January, by Mr. Breckenridge, of Kentucky, who moved that the law of the preceding sessions respecting the judiciary, be repealed.

After the question, both as to its expediency and con-

stitutionality, had been discussed by the leading members of both parties, on the twenty-sixth of January, Mr. Dayton proposed that the act sought to be repealed be submitted to a select committee, to consider and report what alterations should be made in the judiciary system, which was rejected; but the same motion being renewed the next day, the Senate, by reason of the change of vote of Mr. Calhoun, of South Carolina, was equally divided—when the new Vice-President, Mr. Burr, gave his casting vote in favor of the select committee, remarking that he would not question the sincerity of those who professed to be desirous of removing objections to the law sought to be repealed, but that he should disown any oblique attempt to defeat the question of repeal.

The committee, who were chosen by ballot, were Messrs. Baldwin, Calhoun, Dayton, Anderson, and Morris, all of whom, except Baldwin, were Federalists, and opposed to the repeal. This result, as well as the omission of Breckenridge on the committee, at once annoyed and surprised the Republicans, as had the decision of the Vice-President, whose disposition to court the favor of the Federal party had not before been clearly manifested. It was alleged that some of the Republican members had, in preparing their ballots, supposed the committee was to consist of three, instead of five members, by reason of which there was lost that concert of action among them that is usual on such occasions; and Mr. Jackson, of Georgia, actually moved that the balloting should be renewed; but his motion was promptly rejected.

On the next day, Mr. Breckenridge, adverting to the previous attempts, by plans of amendments, to evade the question of repeal, and that this would be the only effect

of the committee, moved that the committee be discharged. His motion was earnestly opposed, and it was said to be without precedent for a member to move to discharge a committee, unless he was a member. The motion, however, was sustained, and the committee was discharged. On the following day the debate commenced, and continued until the question was decided.<sup>1</sup>

The advocates for the repeal were Messrs. Breckinridge, Mason, and Nicholas, of Virginia, Wright of Maryland, Stone of North Carolina, Cooke of Tennessee, Jackson and Baldwin of Georgia.

They urged, in favor of the repeal, that the law was altogether unnecessary, and added to the number of courts when their business had greatly diminished : that many circumstances, of a temporary character, had hitherto furnished the Federal Courts with matter of litigation, such as the British debts contracted before the war ; prosecutions under the sedition law, which was no longer in force ; and suits growing out of the internal taxes, which would probably be repealed : that the time would never come, when as many as thirty-eight Federal judges would be required : that the judicial system, as it previously existed, was not only adequate to all the wants of the country, but was a better one than was substituted, as it enabled the Judges of the Supreme Court, in their circuits, to acquire a more intimate knowledge of the laws and usages of the several States, by which they were better qualified for the Court in the last resort : that this unnecessary creation of judges saddled the country with a heavy expense, apparently for no other object than to reward men of a particular party, at the very moment that party had lost the confidence of the nation : that it was passed in the last

<sup>1</sup> February 3d.

moments of an expiring administration, when there was not sufficient time to deliberate on it; and when some amendments, admitted to be expedient, were not adopted, lest their discussion should hazard the passage of the bill, which, defeated then, would be defeated forever. It was, moreover, stated that some of the former district judges had been made circuit judges under the act of last session, and that some of the members of Congress who had voted for the act, had been appointed to the vacancies thus made; and, supposing them to have voted with this expectation, that salutary provision of the Constitution which prohibits a member of Congress from accepting any civil office created while he was a member, was unwarrantably evaded, and the general principle which precludes a member from voting on a question in which he has a personal interest, was directly violated; and whether we regard its motives, its means, or its ends, the act itself must be unhesitatingly condemned.

In answer to the argument, which the opponents to the repeal urged, that whatever might be the objections to the act, it could not be repealed without violating that clause of the Constitution which secures to all the Federal judges their offices during good behavior, they drew a distinction between the judges of the Supreme Court, which they admitted could not be removed by the Legislature, and the judges of the inferior Courts, which they insisted were thus removable: that the Constitution, in speaking of the Supreme Court, uses the word "shall," but when it speaks of the inferior Courts, it uses the word "may"—that is, such as "Congress *may*, from time to time, ordain and establish"—which supposes their establishment to be discretionary, varying, from time to time, and consequently liable to discontinuance.

Supposing, then, Congress to have the power of abolishing any of these inferior Courts, when they should think the public good required it, it was inconsistent with the fundamental principles of the government, which did not admit of sinecures, that the judges should receive salaries when they could no longer perform public service: that the judicial office is made, not for the benefit of the judge who fills it, but for that of the people; so is the principle of the judge's independence, and that this is sufficiently secured, if the judge cannot be removed except for misconduct, nor his salary diminished, so long as he holds the office; and it is not to be presumed that the Legislature would abolish an office which the public interests required, for the sake of getting rid of an obnoxious judge. In confirmation of these views, they referred to legislative acts of Maryland and Virginia, which were said to have repealed judiciary acts, though their constitutional provisions respecting judges were similar to those in the Constitution of the United States.

The members who opposed the repeal were Messrs. Mason of Massachusetts, Chipman of Vermont, Hillhouse and Tracy of Connecticut, Morris of New York, Dayton and Ogden of New Jersey, Ross of Pennsylvania, White and Wells of Delaware, and Calhoun of South Carolina.

They insisted on the expediency of the law: that, by the former system, the judges were required to hold two sessions of the Supreme Court and two Circuit Courts, which, keeping them always either in Court or on the road, left them no time for study, and made them need the agility of a post-boy, as much as the learning of a jurist: that the new system was not got up in haste, as was alleged, but had been long contemplated, and that a similar plan had been actually brought forward before

there was any prospect of a change of parties. They denied that there was any advantage in making the Judges of the Supreme Court also Circuit Judges; on the contrary, they insisted it was best that the original and appellate jurisdiction should be separate and distinct. They said the new system had not been fairly tried; and if it should be found defective, that was a reason for amendment, not an occasion for repeal: that the expense was insignificant in reference to the great object of administering justice—it not exceeding forty-five thousand dollars a year. But whatever were the objections to the law, its repeal was forbidden by the Constitution: that it had ever been a favorite maxim of policy in this country, that the legislative, executive, and judiciary branches of government should be distinct, and that each should exercise its separate functions beyond the control of the other: and that the Constitution of the United States, as well as those of most of the States, had further provided that the judges should be independent of the people. This principle was deemed essential to their fearless and impartial administration of justice: that they are sometimes called upon to check the unwarranted assumptions of power by the other branches; and to enable them to discharge these high functions faithfully, they are placed beyond the power of removal, except on legal proof of misconduct, and their compensation cannot be diminished. But if the Legislature, which is expressly forbidden to remove a judge from his office, may remove the office from the judge, the constitutional provision would be nugatory.

They insisted that, with regard to the independence of the judges, the Constitution made no distinction between the judges of the Supreme Court and those of the inferior Courts, the reasons being the same in both cases:

that the mandatory word “shall,” applies to both species of Courts, according to the rules of sound construction; and the expression in the latter part of the clause, such Courts “as the Congress may ordain and establish,” was used because the inferior Courts being several, would require to be added to from time to time, as the States increased and the settlements extended. The Constitution regarded the inferior Courts as no less indispensable than the Supreme Court, for, except in cases of foreign Ministers, and where States are parties, the Supreme Court has only appellate jurisdiction; and all the other cases expressly provided for by the Constitution would have no tribunal for their decision, if there were no inferior Courts. They denied that the act abolished the District Courts of Kentucky and Tennessee; but maintained that, on a fair construction of the act, it continues those Courts, and merely adds to their former jurisdiction that of the Circuit Courts; and that, though the Courts were abolished in that case, the judges were retained, which was all the Constitution required. They questioned the application of the precedents cited, at least that of Virginia. They admitted that courts were constituted for the benefit of the community, but the best way of effecting that object was by making the judges independent.

Gouverneur Morris, in a second speech, assuming that the repeal would violate the Constitution, and boldly challenging any member on the opposite side to deny that such was his real opinion, made an eloquent appeal to their patriotism in behalf of that sacred instrument. “Do not rely on that popular feeling which has brought us frail beings into political existence. That opinion is but a changeable thing—it will soon change. This very measure will change it. You will be deceived.

Do not, I beseech you, in reliance on a foundation so frail, commit the dignity, the harmony, the existence of our nation to the wild wind. Trust not your day's treasure to the waves. Throw not your compass and your charts into the ocean. Do not believe that its billows will waft you into port. Indeed, indeed, you will be deceived. Oh! cast not away this anchor of your safety. I stand in the presence of Almighty God and the world. I declare to you that if you lose this charter, never, never, no, never will you get another!"

After a most earnest and thorough discussion, made not with the faintest hope of changing any vote in the Senate, but of producing effect on the community, the vote was taken, and the motion for repeal prevailed by sixteen votes to fifteen.

In the course of the discussion, the two parties were directly at issue on the authority of the Courts to decide on the constitutionality of an act of Congress—the Republicans maintaining that such a power would make the judiciary supreme, instead of being co-ordinate: that each branch had an equal right to interpret its own powers: and that, when it erred, it must be left to the people at the polls to make the correction. The Federalists, however, insisted that, but for this power in the judiciary, there was no security for any right to individuals, or any salutary limitation or restriction meant to be provided by the Constitution. As this branch was powerless to do mischief, they might more safely be trusted with the power of preventing it.

After the vote was taken on the repeal, Mr. Ross moved, by way of amendment, to make an exception in favor of the third circuit, which was that of Pennsylvania. But the motion was, of course, unsuccessful.

In the House of Representatives, the subject underwent the same elaborate discussion, and with a similar result. On the fifteenth of February, after several abortive attempts to postpone the subject, the debate was continued until the first of March, when, on the passage of the bill for the repeal, there were fifty-nine ayes to thirty-two noes.

The advocates for the repeal were Messrs. Davis of Kentucky, Giles, Nicholson, Randolph, Thomson of Virginia, and Williams of North Carolina. Their opponents were Messrs. Bayard of Delaware, Hemphill of Pennsylvania, Henderson and Stanley of North Carolina, and Huger of South Carolina. The arguments were substantially the same as had been urged in the Senate, but were more copiously illustrated, and in general more ably enforced.

In the course of Mr. Giles's speech, which warmly assailed the previous administration, and defended the present, he stated that Mr. Green of Rhode Island, and Mr. Read of South Carolina, who had voted for the judiciary, had both been appointed to fill vacancies in the District Courts, made by the promotion of the judges who lately held them to the office of Circuit judge, under the new law; and that, without their votes, the bill could not have passed.

In reply to the charge thus insinuated, Mr. Bayard said that the facts stated did not warrant the inference that there had been any previous understanding between those members and the President, and that similar charges might be brought against the present administration: that all those on whose votes Mr. Jefferson's election as President mainly depended, had been appointed by him to lucrative offices: that of the five Representatives of New Jersey, two were for Mr. Jeffer-

son, and two against him; and Mr. Lynn, who held the balance between them, and who eventually voted for Mr. Jefferson, had received an appointment. Mr. Livingston of New York, who had it in his power to change the vote of New York, had been since put into a lucrative office, and his brother had been sent Minister to France. Mr. Bailey, his colleague, had since been made postmaster; and Mr. Dent of Maryland, who could have decided the vote of that State, and who had finally voted for Jefferson, had also received an office. Mr. Claiborne, who held the vote of Tennessee, had been since made Governor of the Mississippi Territory. Mr. Lyon could, by withdrawing, have given the vote of Vermont to Burr; and though an appointment could not be given to him, from his want of character, one had been bestowed on his son. He disclaimed any purpose of founding accusations on these facts; but they afforded quite as good ground of suspicion against Mr. Jefferson as similar facts afforded against Mr. Adams.

Thus the Republican party, which had charged their opponents with flagrant violations of the Constitution, and even with the settled purpose of destroying it, in less than three years afterwards—nay, when the same charges were the common theme of taunt and reproach—are found subjecting themselves to a like accusation from their adversaries, and for the same odious object. There is but too much reason to believe that both parties, in their supposed infractions, were actuated quite as much by their vindictive feelings as by a regard to the public interest.

Though it is probable that, among the intelligent portion of the community, especially the lawyers, who contribute so much to originate and guide public sentiment in the United States, there was a large proportion who

believed the repeal of the judiciary law unconstitutional, yet the supposed infraction by the Republicans was far from producing the same injurious results to its authors, as the alien and sedition laws had produced to the Federalists, for several reasons. In the first place, the alien law had roused the resentment of the whole body of immigrants, formidable by their numbers, their political zeal, and the large share they then had in conducting the periodical press. In the next place, the sedition law, apart from the Constitution, would have been unpopular, as threatening the freedom of political discussion ; and though the law professed to punish only the abuses of the press, without interfering with its legitimate freedom, yet, in the heated state of party feeling which then prevailed, who could be sure that, with Federal judges, Federal juries, chosen by the Federal marshals, the distinction would not be sometimes purposely or unconsciously disregarded ? and lastly, the circumstances under which the judiciary act was passed, when its corps of twenty-three additional judges, with many of the marshals and other officers of the courts, were exclusively given to a party, which a majority of the nation had shown no longer to possess their confidence.

Among the Republicans who questioned the constitutionality of the repeal — and they were not a few — the justice of the punishment inflicted by that repeal on a party which had so abused its power in the last moments of exercising it, probably neutralized their discontent with their friends for tampering with the Constitution. Thus the Republican party, which had been evidently gaining ground in New England, and other strongholds of the Federalists, had their success not visibly impaired by this measure. Whatever mischief it did the administration, was more than compensated by their system.

honestly carried out, of public retrenchment, and the lessening of Executive patronage.

One of the first measures of economical reform was the reduction of the military establishment to three regiments, one of artillery, and two of infantry, amounting in all to only three thousand men—a number confessedly not more than sufficient to garrison the fortifications.

The navy having been reduced at the preceding session to thirteen vessels, was not thought to admit of further diminution.

The compensation to collectors of the customs, which had previously been, in some of the ports, inordinately large, was limited to reasonable, specific sums.

The attempt to abolish the mint, which had been made at the preceding session, was now renewed. It was urged that it had failed in its purpose of furnishing the community with coin, and incurred an annual expense, to keep up what was called an attribute of sovereignty; though that, it was contended, consisted not in the fabrication of coin with the national symbols, but in the power of deciding what should be the currency of the country. The Federalists, as consistent in their course on this measure as their opponents, resisted the abolition. It finally, however, passed in the House of Representatives, apparently without opposition; but by its failure in the Senate, the abolition of this useful establishment was fortunately prevented.

In conformity with the President's recommendation, Congress repealed the whole of the internal taxes, producing something less than a million of dollars a year, by which the administration seemed to be deprived of the support of the host of officers thus discharged; but in fact it gained greatly in popular favor.

Notwithstanding this diminution of revenue, so much

greater had been the annual saving from the various retrenchments of expense made by the new administration, that Congress was induced to appropriate, on a plan matured by Mr. Gallatin, as Secretary of the Treasury, no less a sum than seven millions three hundred thousand dollars annually to the sinking fund, which, in case of no extraordinary demands on the treasury, would discharge the public debt, then amounting to eighty millions of dollars, in about fifteen years.

The length of previous residence required for the naturalization of foreigners was abridged, as the President had recommended, and the law of 1795 was restored, so that the rights of citizenship might now be acquired in five, instead of fourteen years. Besides the bias ever manifested by the Republicans in favor of liberal principles, they knew that a large majority of the foreign immigrants always incline towards the popular party.

While the administration was thus successful in all its schemes of economy and reform, an event occurred which seemed to threaten from abroad all its prospects of peace and security.

It was found that, at the general pacification of Europe in the last year, Spain had ceded Louisiana to France, as had been for several years predicted. As soon as the fact was known in the United States, it created general alarm and anxiety. As the Mississippi afforded the only channel through which the immense and still increasing products of the fertile regions of the West could find access to market, whether that market were foreign or domestic, and the navigation of the river would be useless, without a place of deposit near its mouth, the port of Orleans, well suited for that purpose, had become of immense importance to the whole Western people, and consequently to the whole United States. Spain had,

therefore, endeavored, by means of this port, so to address itself to the wishes and the fears of the West, as to detach it from the rest of the Union, and, at one time, not without hopes of success; and though her political arts proved ultimately unavailing—and the attachment of the Western people to the Union was found to be too strong, both from just views of policy, and from the affections of the people, to be shaken—yet it was also found that the navigation of the river was regarded by the Western States as their natural right, and that they were determined to assert it, though it should involve the country in a war.

Whilst Spain was the possessor of New Orleans, such a contest had in it nothing formidable; but the case was very different, when that port was transferred to France, whose power was so vast, and whose ambition was commensurate with her power. Encouraged as she had been by her extraordinary success in obtaining an ascendancy over other nations, not less by her arts than her arms, it could hardly be supposed that, when she found herself in possession of such potent means of acting on the interests and the fears of the Western people, she would not be tempted to use them; and if she did use them, who could answer for the consequences? Apart from this danger, a powerful and ambitious people must always be an unwelcome neighbor, and causes or pretexts for collisions and disputes would perpetually recur. This state of the public mind, though strongest with the Federalists, was confined to no party; and war with France was looked to as almost the necessary, and not distant consequence. The lucky star of the United States, together with the prudent forecast of him who guided the ship of State, saved them from this perilous alternative.

Not long after the cession was known, Mr. Jefferson addressed a long letter<sup>1</sup> on the subject to Mr. Livingston, the American Minister in Paris, wherein he sets forth, in a very clear and forcible point of view, the way in which the cession would disturb the friendly relations between France and the United States :

“There was one spot on the globe,” he states, “the possessor of which was our natural and habitual enemy, which was New Orleans; and while it was possessed by Spain, who was both quiet and feeble, it was of little moment; but it could not be held by so restless and impetuous a people as the French, without endangering our peace: that an alliance with Great Britain would be the necessary consequence, and we must cultivate our maritime resources.” He then asks if, for so paltry an object, France would transfer such a weight into the scale of her enemy? Even if she regards Louisiana as indispensable to her interests, she might be willing to transfer New Orleans and the Floridas, by which the pacific relations between the two countries may be preserved. He thus concludes: “Perhaps nothing since the Revolutionary war has produced more uneasy sensations through the body of the nation.”

This source of alarm was, however, short-lived, and was followed, as we shall see, by the most fortunate results.

By a message from the President to the Senate, on the twenty-ninth of March, it appeared that, in consequence of the disagreement of the Commissioners about the meaning of the sixth article of the late treaty with Great Britain, that government, to avoid all further discussion in executing that article, had proposed that a certain sum should be given for the claims of British creditors,

<sup>1</sup> III. Jefferson’s Correspondence, page 491.

for which the American government should be responsible: that Mr. King, the American Minister, was instructed to agree to this proposal, and that a convention between the two governments had been the result, which convention was now submitted for their advice and consent. By this convention, which was duly ratified, the United States agreed to pay for these claims six hundred thousand pounds sterling, equal to three millions of dollars, in three annual payments.

The only other proceedings at this session worthy of notice, were the following:

A new act for organizing the judiciary system, which mainly restored it as it was before the passage of the act lately repealed, except that it made but one annual session of the Supreme Court instead of two, and thus the strongest objection made to that Court, that the judges had no time for study, was removed.

A law was passed, authorizing the people of the Ohio Territory to call a convention for the purpose of forming a Constitution, and organizing themselves into a State.

A message was received<sup>1</sup> from the President, informing the House that, in pursuance of the act of Congress for an equitable settlement of limits with the State of Georgia, he had appointed James Madison, Albert Gallatin, and Levi Lincoln, Commissioners to settle, with the Commissioners appointed by Georgia, the claims to which that act had relation. Articles of agreement and cession had been executed by the Commissioners; and, as Congress was allowed to act legislatively on them, he had thought it his duty to communicate them to the Legislature. The subject was definitively acted on at the next session.

A few days<sup>2</sup> before the session closed, a report was

<sup>1</sup> April 26th.

<sup>2</sup> April 29th.

made by a committee of investigation, which stated, among other things, that near one hundred and ninety-nine thousand and thirty dollars had been expended in the purchase of sites for navy-yards, without any law authorising the expenditure, or any appropriation.

Mr. Stoddert, the late Secretary of the Navy, had appeared before the committee, and justified the expenditure on the ground that an act of Congress had ordered a number of seventy-fours to be built; and yards must be provided for that purpose; that as experience had shown it was better for the government to purchase than to rent them, the former course had been taken. Besides other irregularities or delinquencies imputed to the members of the preceding administration, the committee did not disdain to notice that Mr. Tracy, while a member of Congress, had been illegally employed as a Commissioner to the Western country—an office which had been created while he was a member—and had received his pay as a member, as well as that of a Commissioner.

The Federalists, on their part, had endeavored to injure the administration in the eyes of the people, by charging it with an extravagant expenditure in fitting out the corvette Berceau, before she was restored to the French government, according to the terms of the late convention. In both cases, the charges, after the party feelings which suggested them have passed away, are calculated to do more injury to the accusers than the accused. The leading journals of the day teemed with similar charges of malversation in office, which, if not altogether groundless, were often frivolous or disingenuous. It afforded no small matter of congratulation to the Federalists that, about this time, Callender, who had been convicted under the sedition law of libelling leading men of that party, had now, from disappointment

in getting an office under the new administration, become a still greater libeller of Mr. Jefferson.

This session, as distinguished for party bitterness as any which preceded it, terminated on the third of May.

If the mere cession of Louisiana to France had excited lively apprehensions in the United States, those apprehensions derived new force from the course now pursued by Morales, the Spanish Intendant of that province. On the sixteenth of October he issued a proclamation, in which he declared that the privilege granted to the Americans, under the treaty of 1795, for three years, of the right of deposit at New Orleans, and which had been since tolerated, was thenceforth interdicted. It was not doubted that this measure had the sanction of the French government, and was probably dictated by its rulers. On the first of December the Legislature of Kentucky prepared a memorial to Congress, insisting that the Spanish treaty of 1795 had been violated, since the Intendant had not, according to the stipulation of that treaty, assigned to the United States an equivalent place of deposit, on another part of the bank of the Mississippi.

In consequence of the delay of the Senate in forming a quorum, it was the fifteenth of December before the President sent his opening message to both Houses of Congress.

In that message, after congratulations on the prosperity and happy condition of the country, the President adverts to the changes in its commerce in consequence of the general peace in Europe. If reciprocity of benefit should be unattainable, it was for the Legislature, he remarks, to determine whether the injurious discriminations of other countries should be reciprocated. He speaks in approving terms of an act of the British Parliament, which proposed a mutual abolition of the duties

allowed by the treaty of 1794, and recommends the subject to the consideration of Congress.

He notices the cession of Louisiana to France, and hints at the change it may make in the foreign relations of the United States. Those with the Barbary States remain as they were. The convention recently made with Georgia had been ratified by her Legislature. He had endeavored to settle all disputes with the Indian tribes.

He informs them that the revenue from the customs has been greater than in any former year, by means of which the administration had been able, after meeting the exigencies of the government, to pay upwards of eight millions of dollars of the public debt, principal and interest, and to leave in the treasury four and a half millions of dollars. He dwells with much complacency on this successful result of the system of public economy which had been adopted.

No important change in the military or naval establishment is recommended; but, adverting to the decay to which ships are liable, he suggests the expedient of a dry dock at Washington, in which they might be laid up in time of peace, and thus be sheltered from the weather and the sun.

Among the general recommendations with which he concludes, are "to foster our fisheries as nurseries of navigation, and for the nurture of men; and to protect the manufactures adapted to our circumstances."

The moderation and liberal tone of this message did not purchase for its author the forbearance of his leading opponents; on the contrary, their opposition was the stronger, perhaps, on account of those very qualities, so likely to disarm party hostility among the people at large, and to win over to his side deserters from the

Federalists, of which fact there were already plain indications. The project of dry docks afforded the principal ground of attack. It was assailed by every form of argument or of contemptuous ridicule, and was regarded as an illustration of the unfitness of a visionary philosopher for the practical duties of a statesman. On this point, as the officers of the navy — feeling little interest in ships on dry land — appear to have generally taken sides with the Federalists, whom they regarded as their original friends and natural allies, against him, he was attacked with much more vigor than he was defended ; and, for the time, public opinion seemed to have settled down that the scheme, if not impracticable, was unwise. But the general practice since adopted of building ships for the navy under cover, and there retaining them for years, until they are wanted for active service, is an ample vindication of the partial adoption, if no more, of the measure he recommended.

In answer to a resolution of the House of Representatives,<sup>1</sup> he, on the twentieth of December, transmitted to the House a report from the Secretary of State, conveying the information that American vessels were not permitted to land their cargoes at New Orleans, and that the produce coming down the river could be landed there only on paying a duty of six per cent., “with an intimation that this was a temporary permission.” It was probable, though not certainly known, that these regulations were in pursuance of the orders of the Spanish government, whose obsequiousness to France was then of general notoriety.

A letter from the American Consul at New Orleans, says that no information had been yet given of any other place having been provided as a place of deposit for the

<sup>1</sup> December 17th.

Americans; nor had he any reason to hope that the Spanish government had any such place in view: that the season was approaching for the cotton to come down from Natchez, and other produce from the settlements higher up. "The difficulties and risks of property," he adds, "that will fall on the citizens of the United States, if deprived of their deposit, are incalculable; their boats being so frail, and so subject to be sunk by storms, that they cannot be converted into floating stores, to wait the arrival of sea vessels to carry away their cargoes."

On the thirty-first of December the President communicated to the House of Representatives a letter respecting the violation by Spain of her treaty with the Spanish government, accompanied with a suggestion that the letter should not be made public; when the Federal party, either with the view of embarrassing the administration in its negotiations with France, or merely to gain popularity with the West, moved that the subject be referred to a select committee; but the motion was rejected by forty-two votes to forty. A motion was then made that the President's message, and the papers accompanying it, be printed for the use of the members; which motion was rejected by forty-nine votes to thirty-three. A third motion was then made by the same party, that this message, and the accompanying papers, be referred to the Committee of the whole House on the state of the Union; which was also negatived by sixty-five votes to sixteen.

Though these proceedings took place in secret session, yet it was no doubt expected that some of them would leak out, so as to prejudice the party in power either with Spain and France, or with the people of the West. From a similar motive, it may be presumed, a few days

later,<sup>1</sup> Mr. Griswold moved that the President communicate to the House such official documents as he possessed “announcing the cession of Louisiana to France,” together with “the stipulations, circumstances, and conditions under which that province was to be delivered up,” as far as they were not deemed by him improper to be communicated.

This resolution being supposed, by the Republicans, to be calculated to embarrass the administration, and to have been so intended, was on that ground opposed; but before any decision took place, Mr. Randolph moved that it be referred to the whole House on the state of the Union; which motion was carried by forty-nine votes to thirty-nine. An unsuccessful attempt was then made by the Federalists to adjourn; after which the galleries were cleared, and the House resumed the discussion on the President's message of the thirty-first of December.

The next day the Federal party, still desirous of making the discussion public, or, if that could not be done, of furnishing as much material as they could for agitating speculations and surmises, moved that the House resolve itself into a Committee of the Whole on the state of the Union; which motion was negatived by forty-eight votes to thirty-eight.

Mr. Griswold then moved the following resolutions:

That the people of the United States are entitled to the free navigation of the Mississippi.

That the navigation of that river had been obstructed by late regulations at New Orleans.

That the right to that navigation ought never to be abandoned by the United States.

That a committee be appointed to inquire whether

<sup>1</sup> January 5th.

any, and what, legislative measures are necessary to secure to the United States this navigation.

The House refused to consider these resolutions, as their discussion would interfere with the course of policy they had previously adopted.

The next day,<sup>1</sup> the House, in secret session, having resolved itself into a Committee of the Whole on the state of the Union, Mr. Randolph offered a resolution: That the House received with great sensibility the information of a disposition in certain officers of the Spanish government at New Orleans, to obstruct the navigation of the Mississippi, as secured to the United States by most solemn stipulations: that, willing to attribute this breach of compact to unauthorised individuals, rather than to a want of faith in His Catholic Majesty, and relying on the vigilance and wisdom of the Executive, they would wait the issue of such measures as the Executive should adopt for vindicating the rights of the United States; at the same time expressing their unalterable determination to maintain the boundaries, and the rights of navigation and commerce through the Mississippi, as established by treaty.

The first part of the resolution was agreed to without a division; but it was then moved to strike out the passage which expressed confidence in the "vigilance and wisdom of the Executive;" which motion was negatived by fifty-three nays to thirty ayes.

Some objections were then made to the language of the resolution, which being negatived, the other parts received an unanimous vote, and finally the whole resolution, as offered, was adopted by fifty votes to twenty-five, some three or four Federalists voting with the Republicans.

<sup>1</sup> January 7th.

Four days afterwards,<sup>1</sup> Mr. Griswold's resolution calling on the President for information, which had lain on the table, was rejected by fifty-one votes to thirty-five.

The people of the West being, at this time, in a high state of excitement and anxiety about the present obstacles to the navigation of the Mississippi, and the dangers which threatened it hereafter, with the view of soothing their feelings, and counteracting the tactics of the Federalists in Congress, the President decided on sending Mr. Monroe to France, as the coadjutor to Mr. Livingston. In his letter to Mr. Monroe, informing him of his appointment, he says that the agitation of the public mind on the suspension of the right of deposit at New Orleans is extreme in every part of the country, especially in the West. That the measures which have been pursued by the administration, being invisible, do not satisfy them. That something sensible had therefore become necessary; and that the purchase of Florida and New Orleans is liable to assume so many shapes, that no instructions could be adapted to them. He thinks that the peace of the country depends on this purchase, and that, in case of failure, it behoved the country to prepare for war, which could not be far distant. In conformity with the course of economy the new administration had prescribed to itself, he tells Mr. Monroe that he is not to have an outfit, but merely the expenses of his voyage paid.

The claims of citizens of the United States for spoliations on their commerce by the French having been surrendered by the American government, in consequence of its acceptance of the ratification of the treaty of 1800 by France, the claimants considered that they had a right to indemnity from the United States. On their behalf the subject was brought before Congress, and having

<sup>1</sup> January 11th.

been referred to a special committee, they made a full report, which was unfavorable to the claims. The subject was several times called up during the session, but was never finally acted on. These claims have since afforded a copious subject of discussion in Congress, and after the lapse of forty years, the question of their right to indemnity is still unsettled, though they twice obtained a majority in both Houses, but were defeated by the President's negative.

In consequence of a confidential message from the President, Congress made an appropriation to defray the expense of an exploring party across the American continent. Mr. Jefferson was induced to propose this measure by his disposition to promote science and the geographical knowledge of the interior portion of the dominions of the United States. His "Notes on Virginia" indicating a degree of local knowledge which was extraordinary at that day, had no doubt stimulated his desire to extend his information. This doubtless prompted him to advise the traveller Ledyard, in 1792, to explore his own country rather than the Eastern continent; and he subsequently recommended to the American Philosophical Society to effect the same object by private subscription. It was highly gratifying to him to be now able to execute, under peculiar advantages, a project which he had so long cherished. Captain Meriwether Lewis, who had acted as his private secretary, and whose qualifications were well known to him, was selected as the leader of the exploring party.

This party consisted of thirty persons in all, including Captain Lewis and Captain Clark, the first and second in command. The instructions for the expedition were prepared by Mr. Jefferson himself, and they exhibited great judgment and forecast.

By reason of the dangers which had been threatened in the late election of President, amendments to the Federal Constitution were proposed at this session,<sup>1</sup> by one of which the President and Vice-President were to be separately voted for; and thus it could not again happen that he whom the electors intended to be the second officer of the government, had a chance of being elevated to the important and delicate trust of Chief Magistrate. It is true that every one chosen Vice-President might become President, and such a result was the chief purpose of his office; but this contingency was then strangely deemed so improbable, as to be almost disregarded in the selection of candidates.

It had been found that a provision in the Constitution, which the framers of that instrument believed to be admirably adapted to counteract the mischiefs of undue local and personal influence, was pregnant with far greater mischiefs, and to be one of the only two occasions in which that instrument has undergone alteration, among the numerous attempts to amend it which have been since made.

Another amendment was proposed,<sup>2</sup> that the Legislature of each State should divide it into as many electoral districts as it was entitled to, and direct the mode of choice; which districts should not be changed until a new census was taken.

These amendments were subsequently postponed<sup>3</sup> to the first Monday in November, it being, doubtless, ascertained that neither of them could then obtain the requisite majority of two-thirds before it could be recommended to the State Legislatures.

It was proposed, at this session, to re-cede to the States of Virginia and Maryland respectively, the jurisdiction

<sup>1</sup> January 3d, 1803.

<sup>2</sup> February 1st.

<sup>3</sup> February 9th.

of the parts of the District of Columbia severally ceded by them to the United States; but the first resolution, respecting Virginia, failed by the large majority of sixty-six to twenty-six; that of Maryland was rejected without a division. Much stress was laid by the advocates for the measure on the political anomaly which the inhabitants of this District exhibited, in their being deprived of the right of voting for representatives, and in their not being actually represented either in a State or the United States. Two members from Virginia were among the ayes.

A message was received from the President,<sup>1</sup> with a letter and affidavits, complaining of John Pickering, District Judge of New Hampshire, which having been referred to a committee, on their report, the Judge was, by order of the House, impeached of high crimes and misdemeanors, and a committee was appointed to conduct the impeachment.

The President's recommendation to repeal the discriminating duties in favor of American vessels did not meet with the approbation of Congress. It was opposed by petitions from the merchants both of Philadelphia and New York. The petitioners relied on the rapid increase of American tonnage under the existing system, without adverting to the fact that the United States had never had any experience of mutual exemption, their vessels having experienced the disadvantage of the discriminations of other countries, before the present Constitution afforded them the power to counteract them by correspondent discriminations.

It deserves to be remarked that the petitioners ground their objection to the proposed abolition of discriminating duties on the facts, that foreign nations could

<sup>1</sup> February 3d.

build vessels cheaper than the United States, could navigate them at less expense, and that the value of the imported cargoes was greater than that of the exports, whereby foreign vessels were excluded from this branch of the trade ; all of which facts were either disputable, or, if true, furnished no solid argument of national policy in support of their petitions.

A proposition to discontinue the mint also failed, though it was supported by a large portion of the Republican party, who having, under the former administration, insisted that it was an useless expense, adhered to the same ground now. After some disagreement among the majority about the course to be pursued, a bill was finally passed to continue the mint establishment at Philadelphia for five years.

The scheme of Dry Docks was countenanced by the favorable report of the committee to whom it was referred ; but after a debate of some days in Committee of the Whole, the House refused to give countenance to the opinion advanced by the Federalists, that the scheme was visionary.

Anticipating that the charter of the Bank, which would expire in 1809, would not be renewed, Mr. Jefferson, on the recommendation of the Secretary of the Treasury, directed the sale of the bank stock held by the government.

At this session, the Territory of Ohio was admitted into the Union as one of the States of the Confederacy. Her population was then less than one-fourth of what her metropolis now contains. In the past history of the world the increase of numbers has been everywhere slow and gradual, because the means of producing additional food have increased slowly ; but in consequence of a people having the arts of husbandry, and other advan-

tages of civilization, possessing a country almost unoccupied, the natural multiplication receives no impediment from the difficulty of subsistence. Elsewhere these increased powers of production have kept pace with the progress of population, and have been, in some measure, the result of the wants and necessities which that increase of population has occasioned.

The present session was also distinguished by a law which settled the various claims to that portion of the wild lands of Georgia, as well as the conflicting rights of that State and of the United States.

The history of these claims makes an important and not very creditable chapter in American annals.

The country in question, now constituting the States of Mississippi and Alabama, had long afforded matter of dispute as to the ownership. Georgia claimed the whole under the royal charter of the British Crown to Oglethorpe. South Carolina claimed a part of it under her prior charter: and all the States claimed the whole of it by right of conquest, and the treaty of peace, in the war of the Revolution.

Two acts of Congress, passed in 1798 and 1800, having given authority to the Executive to appoint Commissioners to adjust the question of right with Georgia, as well as to inquire into the claims of settlers, President Jefferson appointed three members of his Cabinet as Commissioners. These were Mr. Madison, Mr. Gallatin, and Mr. Lincoln. In April, 1820, they agreed, with three Commissioners appointed by the State of Georgia, that the territory in question should be ceded by Georgia to the United States, and the United States were to pay Georgia one million two hundred and fifty thousand dollars; to confirm the titles of all who claimed under Great Britain, when she held Florida, and a part of this

territory was comprehended within its limits; or under Spain, after she conquered it; or under a law of Georgia passed in 1785; and they proposed to set apart five millions of acres for "satisfying, quieting, and compensating" all other claims. This agreement was ratified by Georgia in June, 1802.

The Commissioners of the United States, in discharge of the second part of their duty (to inquire into the claims of land in the territory), made a report to Congress, in which they set forth the various descriptions of claims to land within the territory, not only those mentioned in the articles of cession, but those of far greater magnitude and value, which were derived from laws of Georgia passed in 1789 and 1795. By the first of these laws, more than half the whole territory was granted to the South Carolina Yazoo, the Virginia Yazoo, and the Tennessee companies, for the sum of two hundred and seven thousand dollars. But as they offered to pay this grossly inadequate price in depreciated paper-money of Georgia, they were considered by the State to have forfeited their claim, and the Commissioners agreed that they had no title either to land or compensation.

The claimants under the law of 1795 had a title which was valid according to all the forms of law, but it was vitiated by the grossest bribery and corruption. This law authorised the sale of four tracts of country to four companies, called the *Georgia, the Georgia Mississippi, the Upper Mississippi, and the Tennessee companies*—comprehending, as then estimated, twenty millions of acres, for the sum of five hundred thousand dollars, or two and a half cents the acre; but, as subsequently appeared, when the quantity of land was correctly ascertained, at half that price. They paid the purchase-money, and received deeds duly executed by the Governor of Georgia.

It was found that these four companies had previously combined to set apart two millions of acres for such persons as they should admit into their partnership, on their paying at the rate of two and a half cents per acre; and that a majority of both Houses of the Legislature which passed the law had been admitted partners on those terms, and in different proportions, according to the value which the speculators set on each one's influence in the Legislature, and he set on his integrity; and that, moreover, the members had been excused from paying the trifling sums thus due from them, until seven months afterwards, before which time the lands might be sold for, perhaps, forty or fifty times their cost.

These facts, which were too notorious to be concealed, having been proved beyond a doubt to the succeeding Legislature of Georgia, they, in conformity with the united and indignant voices of their constituents, annulled the grants thus corruptly obtained, and ordered the purchase-money to be repaid.

More than half of it was accordingly repaid; but in the interval between the grant and its annulment, many of the purchasers had sold their rights to others; and these last hoped, in the character of innocent purchasers, on the faith of a legislative act, to reap the benefit of their purchase, either in its literal fulfilment, or in an advantageous compromise.

Finding all chance of obtaining the lands hopeless, they bent their efforts towards a compromise with the Commissioners, and modestly offered to take eight millions five hundred thousand dollars, or seven times the sum they had given, in lieu of their claim for the land.

The Commissioners unhesitatingly rejected their claim, but added their belief "that the interest of the United States, the tranquillity of those who may hereafter

inhabit that territory, and various equitable considerations which may be urged in favor of most of the present claimants, render it expedient to enter into compromise on reasonable terms." They therefore recommend that the claimants, at their option, receive either such part of the five millions of acres as may remain after satisfying certain other settlement claims, or two millions five hundred thousand dollars, with interest, or five millions of dollars, without interest, to be raised from the sale of those lands. They also recommend a legal provision in favor of all claims of actual settlers.

Congress gave its sanction to this report, so far as to pass a law which confirmed the claims of all settlers, and gave the right of preemption to such of them as had no claim; and authorised the three Commissioners to receive offers of compromise from the other claimants, and to report them to Congress.

The claimants — the purchasers from the four companies before-mentioned — accepted the terms suggested by the Commissioners in their report; but year after year, Congress refused to make the requisite appropriations, on the ground of the corruption in which the claims had originated. Mr. Randolph distinguished himself by the vehemence of his opposition to the compromise, and by the eloquence he displayed in resisting its execution. The compromise, however, finally prevailed, and in 1814 the sum of five millions of dollars was appropriated to the claimants.

These Yazoo claims, as they were called, from a river of the territory in question, present matter of regret to every one who feels a due respect for official integrity, or the fair fame of his country. It especially leaves a stain on the State of Georgia, which is hardly wiped out by the honest indignation of the people of that State, and

the retributive justice of the succeeding Legislature. It affords cause of additional regret that these rapacious and unprincipled speculators, though partly foiled in their purpose, were so far successful, as to receive, either by themselves or their assignees, ten times the money they had originally expended.

Throughout the session it appeared to be a favorite scheme of the opposition either to involve the country in a war with Spain, or to subject their opponents to the imputation of abandoning the interests of the Western people in the navigation of the Mississippi, by which their popularity in that part of the country would be destroyed. With these views, Mr. Ross, of Pennsylvania, a Federalist of commanding talents in the Senate, offered a series of resolutions,<sup>1</sup> which, after asserting the right of the United States to the navigation of that river, and to a place of deposit on its banks, and noticing the infringement of these rights by Spain, proposed to authorise the President to take immediate possession of such places in or near New Orleans as he deemed fit; and for this purpose to call into service the forces of the country, and the militia of the neighboring States.

Of these resolutions, the one which asserted the rights of the United States alone passed; but in lieu of the rest, another, offered by Mr. Breckenridge, of Kentucky, which authorised the President to call out eighty thousand militia, if circumstances should require it, was unanimously adopted, and a bill in conformity with the resolution passed both Houses.

Among the memorable occurrences of this session, we may mention that eleven of the sixteen Circuit Judges appointed under the judiciary act repealed at the preceding session, petitioned Congress to receive their sala-

<sup>1</sup> February 25th.

ries—affecting to consider the question of their right to compensation unsettled when their offices were abolished, though most of the speakers on both sides, in the discussion, assumed or admitted that, if the law was repealed, the judges must lose their salaries; and the opponents to the repeal made use of that consequence as the strongest argument against the constitutionality of the repeal. They proposed to submit the question to a judicial decision. No one believed that a majority, after repealing an unpopular law, would restore the most unpopular feature in it. The petition, however, and the debate to which it gave rise, were intended, like too many of the proceedings of Congress, to operate on public sentiment through the newspapers. Their application was rejected by sixty-one votes to thirty-seven.

Two days before the session ended,<sup>1</sup> Mr. Griswold, not disposed to relax in his hostility towards the party in power, offered a resolution, that the Committee of Ways and Means be directed to inquire whether the Commissioners of the Sinking Fund have applied the sum of seven millions three hundred thousand dollars to the payment on account of the public debt, and also into the account of the proceedings of those Commissioners; and he endeavored to show that the money had not been used as the law required, or as the accounts of the treasury reported. He excused himself for having brought forward this resolution so near the end of the session, by saying that he had been a week seeking for an opportunity of doing it; and that he had, a few days after the report on the finances, of the seventh of March, stated his objections to the Chairman of the Committee, who had doubtless communicated them to Mr. Gallatin. To this resolution no objection was made.

<sup>1</sup> March 2d.

The next day,<sup>1</sup> Mr. Bayard, in the same spirit of party warfare, opposed the sale of bank stock belonging to the United States, to the amount of one million of dollars, as both illegal and inexpedient. His resolution was negatived by a decisive majority; after which a resolution, that the sale was both legal and highly beneficial to the United States, notwithstanding several oblique attempts to defeat it, was passed by a majority of forty-two votes to twelve.

The Chairman of the Committee of Ways and Means soon afterwards made a report containing the answer of Mr. Gallatin to the queries made by the Committee, both as to the application of the seven millions three hundred thousand dollars, by the Commissioners of the Sinking Fund, and the sale of the bank stock, which was so clear and satisfactory as to silence all further cavil on the subject.

The next day terminated the session and the seventh Congress.

<sup>1</sup> March 3d.

## CHAPTER XII.

### JEFFERSON'S ADMINISTRATION.

#### FIRST TERM.

1803—1805.

WHILE the petty party contests which have been mentioned were going on in Congress, the American Ministers in Paris were diligently prosecuting the object of their Mission; and, favored by circumstances, they at length brought it to a far more successful termination than had ever been expected.

The treaty of Amiens had given peace to France and England, but not given them mutual amity and confidence; and ere it had existed a twelvemonth, it seemed clear that, in consequence of the refusal of England to surrender Malta, and yet more, perhaps, the jealousy and distrust which each nation had of the other, a renewal of the war was inevitable.<sup>1</sup> The First Consul, foreseeing that, with the great superiority of the English at sea, Louisiana, in the event of war, would soon be wrested from France, especially when her possession of it was so unacceptable to the United States, had offered,<sup>2</sup> before the arrival of Mr. Monroe, to make sale of it to Mr. Livingston.

The price first demanded by Bonaparte was a hundred

<sup>1</sup> England declared war on the 18th of May, 1803, but it was generally expected in the preceding March.—Annual Register for 1802.

<sup>2</sup> April 11th.

millions of francs; but the purchase was finally concluded, on the thirtieth of April, for sixty millions of francs, equal to eleven millions two hundred and fifty thousand dollars, payable in six per cent. stock, redeemable in fifteen years; and also those claims of American citizens which the French government had agreed to pay, by the convention of 1800, which were estimated at twenty millions of francs, equal to three millions seven hundred and fifty thousand dollars — thus making the purchase-money fifteen millions of dollars.

It was further stipulated that French and Spanish vessels, with merchandize from their respective countries, were to be admitted into the ports of Louisiana for twelve years, on paying the same duties as American vessels; after which time the ships of France were to be received into those ports on the footing of the most favored nation. The ceded country was to be admitted into the American Union as soon as the Constitution permitted.

Thus the prudent counsels of the administration, which had lost no time in endeavoring to divert France from a settlement that, on so many accounts, was objectionable to the United States, were favored by an unexpected turn in the affairs of France. If fortune had a large share in this result, yet that circumstance does not detract from the wisdom of those counsels, by which the full benefit of the fortunate events was promptly secured to the United States. Had the Mission to France not been decided on, or had it been delayed, France might not have thought of making the sale of Louisiana, or not soon enough to prevent England from seizing the prey, and either retaining it permanently, or until the return of peace; and whether it had been then retained by her, or retroceded to France, it could scarcely have become

the property of the United States, except by the hazardous and costly means of conquest. It would further seem, from Mr. Jefferson's statement, that the contingency of a war between France and England had been contemplated by the American administration, and had been provided for in their instructions to the American negotiators.<sup>1</sup>

The ceded country, extending from the Atlantic to the Pacific, was supposed to contain more than a million of square miles, making its cost about twenty-three cents an acre; but nineteen-twentieths of it was probably in the occupation of its aboriginal proprietors. Its white inhabitants were principally French, descendants of French and Spanish creoles, all of whom, including forty thousand slaves, did not amount to more than eighty or ninety thousand.

While this purchase was justly regarded by Mr. Jefferson as an invaluable acquisition to the United States, a difficulty seemed to him to be presented to its immediate fruition by the Federal Constitution. That clause which spoke of the admission of new States, Mr. Jefferson inclined to think applied exclusively to the territory of the United States, as it then existed. In this doubt about the true meaning of the Constitution, he thought the proper course was to have the Constitution amended.

<sup>1</sup> In a letter to General Gates, Mr. Jefferson says, that as the opposition had endeavored to impute the whole merit of the purchase to the renewal of the war between England and France, "they would be cruelly mortified could they see our files from May, 1801, the first organization of the administration, but more especially from April, 1802. They would see that, though we could not see when war would arise, yet we said with energy what would take place when it should arise. We did not, by our intrigues, produce the war, but we availed ourselves of it when it did happen." — III. Jefferson's Correspondence, page 510.

The friends of the administration were, however, less scrupulous, or less critical, than he, and regarded his objections as too refined. They considered the treaty to be constitutional, and, of course, that no enlargement of the treaty-making power was necessary.

While he himself thus doubted about the right of the President and Senate to incorporate the foreign territory into the Union, he saw the dangers that might arise out of this question, and urged his friends to be silent about it. Their plan, he said, was to ratify the treaty, pay the money according to its stipulations, and “throw themselves on their country for doing for them unauthorised what we know they would have done for themselves, had they been in a situation to do it.”<sup>1</sup>

His precaution proved to be well founded, for had any thing occurred to delay the ratification of the treaty, besides the contingencies which have been mentioned, France herself would probably have chosen, under this pretext, to regard the treaty as annulled. The American Ministers soon afterwards wrote from Paris, that if the negotiations were then to take place, the same treaty could not be obtained; that if the United States gave to the French government the least opening, they would declare the transfer void; and that a warning to this effect had actually been given to them. A letter from Mr. Pichon, then Minister to the United States, affords confirmation of these conjectures.

In consequence of the intimation from the American Ministers at Paris, the President convened Congress on the seventeenth of October, about three weeks earlier than the day to which they had previously adjourned.

On that day Mr. Macon was again chosen Speaker;

<sup>1</sup> III. Jefferson's Correspondence, page 513.

and on the same day, the President sent his opening message to the two Houses of Congress.

Adverting to the extraordinary sensation occasioned throughout the country by the suspension of the right of deposit at New Orleans, he informs them, though a continuance of the privation would have justified any mode of redress, yet on friendly representations having been made by the American government, the right was restored.

That before this suspension, the administration, with the sanction of Congress, aware of the danger to the peace of the country while this key to the commerce of the Western country remained in the hands of a foreign nation, had endeavored to obtain the sovereignty of New Orleans and other neighboring possessions, important to the future welfare of the United States, and two millions of dollars had been appropriated to that object.

That the enlightened government of France saw the importance of liberal arrangements on this subject, and had conveyed, in conformity with the treaty then made, the property and sovereignty of the province of Louisiana to the United States, by which they had secured an independent outlet for the produce of the Western States, important aids to their treasury, an ample provision for posterity, and a wide extension of the blessings of freedom and equal labor.

That it devolved on Congress to pass the necessary laws for the occupation and government of the country thus acquired; for confirming to the Indian inhabitants their occupancy and self-government, and for ascertaining the geography of the country.

He notices a valuable purchase of territory from the Kaskaskias Indians, near the mouth of the Ohio; and

the improvement of other tribes in agriculture and household manufactures.

A convention had been entered into with Great Britain for the settlement of the boundary line between her American possessions and the United States, in the north-eastern and north-western angles of their territory.

The condition of the treasury was easy. Between eleven and twelve millions of dollars had already been received, which sum was sufficient to discharge more than three millions of the principal of the public debt, and to leave a surplus of nearly six millions in the treasury.

Should the acquisition of Louisiana be confirmed by the Senate, a sum of nearly thirteen millions of dollars will be added to the public debt, most of which is payable after fifteen years. He trusts that the gradual augmentation of revenue to be expected from the increase of population and wealth will be sufficient to meet this additional debt without the aid of new taxes.

After adverting to the renewal of war in Europe, and congratulating the country on the wise counsels which had prevented it from taking a part in the contest, he urges the policy and justice of strict neutrality; of punishing all violations of it by American citizens; and of exacting from every nation an observance of those principles and practices which all civilized people acknowledge; by which course they would at once merit the character of a just nation, and maintain that of an independent one.

Looking to the future with his wonted sanguine temper, he thus predicted a state of things which a few years most wofully contradicted: "Separated as we are by a wide ocean from the nations of Europe, and from the political interests which entangle them together, with

productions and wants which render our commerce and friendship useful to them, and theirs to us, it cannot be the interest of any to assail us, nor ours to disturb them. We should be most unwise, then, were we to cast away the singular blessings of the position in which nature has placed us, the opportunity she has endowed us with of pursuing, at a distance from foreign contentions, the paths of industry, peace, and happiness; of cultivating general friendship, and of bringing collisions of interest to umpirage of reason rather than of force."

In the Senate the treaty was duly ratified, and, as was understood, by twenty-four votes to seven—the minority consisting of five members from New England, and two from Delaware.

This ratification was duly communicated to both Houses by the President,<sup>1</sup> and their early attention to the legislative provisions required was earnestly requested.

The first act of legislation to which the treaty gave rise was a bill introduced in the Senate by Mr. Breckinridge, of Kentucky, "to enable the President to take possession of the territories ceded by France to the United States. But it would seem that it was not suffered to pass without opposition, on the ground that the Constitution had not authorised the incorporation of foreign territory into the Union. But on the fourth day<sup>2</sup> after the bill was introduced, it passed by twenty-six votes to six—all of which last were from Massachusetts, New Hampshire, and Connecticut.

The same bill, three days afterwards,<sup>3</sup> passed the House of Representatives by an equivalent majority of eighty-nine votes to twenty-three—the minorities in both

<sup>1</sup> October 22d.

<sup>2</sup> October 26th.

<sup>3</sup> October 29th.

Houses constituting nearly the whole of the Federal party.

On the same day that this bill had been introduced in the Senate, a resolution offered by Mr. Randolph was adopted by the House, "that provision ought to be made for carrying into effect the treaty and conventions concluded at Paris between the United States and the French republic," which having been referred to the Committee of the whole House, the following resolutions were adopted :

First. That provision ought to be made for carrying the treaty and conventions into effect.

Second. That so much of the President's message as related to the occupation and establishment of a provisional government over the territory lately acquired from France, be referred to a select committee ; and

Third. That so much of those conventions as related to the payment of sixty millions of francs to France, and to the payment of debts due by the French government to citizens of the United States, be referred to the Committee of Ways and Means.

The first resolution passed by ninety votes to twenty-five, and the two last without a division.

Bills, in pursuance of the preceding resolutions, were soon introduced, and passed the House before the month of October had expired, by the preponderating majority which supported the administration.

It was in the debate on these bills in both Houses that the constitutional objections to the Louisiana treaty were fully discussed.

The first objection was, that there was no express grant of power to incorporate foreign territory into the Union ; and the second was, that the seventh article of the treaty, by admitting French and Spanish ships into

the ports of Louisiana on the same footing as American vessels, and consequently exempt from the discriminating duties, gave a preference to those ports over the ports of the States, which the Constitution expressly prohibited.

In the first objection the Federalists generally admitted that the United States could constitutionally acquire territory by conquest or purchase; but they maintained that the territory thus acquired must be retained and governed as a dependency, and could not be admitted as one of the States of the Union, and consequently that the article in the treaty for thus admitting Louisiana was unconstitutional and void. They said that, on a contrary supposition, a foreign state, differing from the United States in religion, form of government, manners and habits, and exceeding them in numbers, might thus be admitted, and destroy the republic; and it was absurd to put that construction on the Constitution which involved its own subversion; that those States which had formed the Constitution knew of their existing relations in numbers and strength, and had taken them into account when they entered into the Confederacy, and looked forward to no other changes than those which time and the natural progress of population would effect; but to make a great and sudden change, and one that might vitally affect some of the members, was virtually making for them a new Constitution, and one which, to have either legality or justice, required the sanction of every member of the Union.

Most of the Republican members regarded these objections as of too refined a character, and maintained that it was not a fair rule of interpreting a Constitution, to rely on bare probabilities, as no one ever devised could stand that test. They further insisted that, though the Constitution had no express provision for admitting

foreign territory into the Union, yet, after the United States had acquired such territory, as it was conceded they might, it was then undistinguishable from the other territories of the United States, and was within the express provision of the Constitution for the admission of new States. Others evaded the argument by saying that the admission of the new territory into the Union was not absolute, but was made to depend upon the provisions of the Constitution itself, so that it was premature to decide this question until the time came when the new territory should apply to be admitted into the Union.

To the second constitutional objection, that the seventh article of the treaty gave a preference to the ports of Louisiana over other ports of the United States, the administration party answered that the clause in the Constitution referred to could not apply to the newly-acquired territory until it became a State: that, in such case, it did not necessarily follow that there would be a preference given to the ports of the new State, since the same favor to French and Spanish vessels, which is a mere provision of law, might be extended to them in the ports of the other States: that the admission of American vessels into the ports of Louisiana, on the same footing as French and Spanish vessels, is an advantage conferred by the treaty on American shipping and commerce generally, and cannot be construed a violation of that provision of the Constitution which was made expressly for their benefit and protection: and lastly, that this temporary and local favor shown to French and Spanish shipping, and which incidentally benefits the ports of Louisiana, was a part of the price for which the cession was made, and thus enured to the benefit of all the States.

These arguments were so far deemed satisfactory, that the bill passed in the House by a majority of ninety votes to twenty-five, for executing the convention with France; and in the Senate, by twenty-six votes to five. It deserves to be mentioned that, among the majority of the Senators, was John Quincy Adams, subsequently President of the United States, who exhibited, on this occasion, that independence of party which he so often manifested in after life. He took part in the debate, and while he did not hesitate to say that he considered the arguments against the constitutionality of admitting foreign territory into the Union to be unanswerable, he thought that consideration did not preclude us from executing the treaty, and taking possession of the valuable territory we had acquired, since it was competent for the people to remove the constitutional difficulty; and he accordingly voted for the bill.

Mr. Jefferson and his party associates have been charged with acting, on this occasion, inconsistently with their former professions, in voting for the appropriation of money for carrying into effect a power not recognized by the Constitution, and which could be justified only on the ground that it advanced the general welfare, a ground which they had always held to be heretical, and which they maintained would make the power of the Federal Government unlimited. But there seems to be no justice in this charge. They never denied that Congress could appropriate money to carry into execution any power expressly given by the Constitution, or any law constitutionally made. If, then, the Constitution permitted the acquisition of territory by purchase, as was generally conceded, then as treaties constitute a part of the law of the land, Congress had the constitutional power of appropriating the money

required to perfect that purchase : so that this question of the right to make the appropriation is altogether dependent on the right to make the purchase. Admit the first right, and the other is the necessary consequence.

The Federal party, not content with the defensive warfare of opposing the measures of the administration relative to the Louisiana treaty, determined also to act offensively ; and with this view Mr. Griswold offered a resolution,<sup>1</sup> by which the President was requested to lay before Congress a copy of the treaty between France and Spain which ceded Louisiana; the deed of cession, if one existed ; and such part of the correspondence between the United States and Spain as would show the assent or dissent of Spain to the late purchase of Louisiana ; together with such other documents as were in the possession of the government, or which tended to ascertain whether the United States had, in fact, acquired any title to the province of Louisiana by the treaty with France of the thirtieth of April. He urged that the treaty merely affirmed a promise on the part of Spain, and not an actual cession, and, for aught that certainly appeared, the United States had not acquired, by this treaty, either territory or subjects.

He was answered principally by Messrs. Randolph, Nicholson, Mitchell, and Elliott. It was known that the Spanish authorities in America had endeavored to raise difficulties against the execution of the treaty of cession to the United States. It was also said that Spain had protested against the right of France to make the transfer, on two grounds; one, that France had not complied with her stipulations; and another was, that she engaged, if she parted with the province, to retransfer

<sup>1</sup> October 24th.

it to Spain, and accordingly Spain made a show of refusing to surrender the possession. These facts were wholly, or in part, known to the mover of the resolution. It was, however, opposed in a spirited debate, conducted on one side chiefly by Mr. Griswold himself, and on the part of the administration by Messrs. Randolph, Nicholson, Mitchell, and others, who maintained that, on a fair construction of the French treaty, it positively asserted a cession to France, in pursuance of the secret treaty of Ildefonso, of the first of August, 1800; and that, under the circumstances, the call for papers, which they admitted that the House had the right to make to enable them to determine whether they would concur in the legislative aid required to give the treaty effect, was not necessary on the present occasion. Each party taunted the other with pursuing a course, on the present occasion, inconsistent with that which it had pursued on a similar call for papers in the case of the British treaty of 1794. It was also urged against the Federalists that, while they had lately maintained that the United States must obtain possession of New Orleans, the key of the Mississippi, even at the hazard of war, now, when it could be peaceably obtained, they were scrupulous in receiving it, and cavilled about the title.

When M. Pichon, the French Minister to the United States, was about exchanging ratifications of the Louisiana treaty, he proposed to add a protestation against any failure of execution on the part of the United States, either as to time or other circumstance; but on being told that, in such case, the United States would make a counter-protestation, which would leave the matter precisely where it was; that this transaction had been conducted throughout with a frankness honorable to both nations; that to annex to it such an evidence of mutual

distrust, would be discreditable to both; that both branches of the American Legislature had passed one of the bills for carrying that treaty into execution, and would soon pass the other. On these representations, he exchanged the ratifications without making the threatened protest, and thus the seal was put to an acquisition of territory, whose effects on the destinies of the United States, and even on the rest of the world, it is beyond human foresight fully to scan. Without being able to see the precise character of these consequences, it is manifest that they must be very great; and in a far less time than the ceded region had constituted part of the dominions of France or Spain, the wandering tribes of savages which are now its only inhabitants, and amounting at most to a few hundred thousand, will be substituted by a hundred millions of free, intelligent, and civilized men. As active a commerce will be carried on with Asia from its Western border on the Pacific as with Europe from its Eastern border on the Atlantic; and possibly the lights of Christianity and of free government be carried into China by the peaceful medium of commerce. It is a further source of pride and gratification, that this immense territory, more than twelve times as large as Great Britain, was acquired at a much smaller cost than has been often expended by an European army in six months.

The question on the resolution was divided; and on the first part, which called for a copy of the treaty between France and Spain, of the first of October, 1800, for delivering the possession of Louisiana to France, the House was equally divided, and the Speaker voting with the ayes, it passed in the affirmative.<sup>1</sup>

<sup>1</sup> According to the journals of the day, the number of the ayes, exclusive of the Speaker's vote, and of the noes, were each fifty-nine; and on

The second member of the resolution, which called for a copy of the instrument of cession from Spain to France, and the third, which called for the correspondence between the United States and the Spanish government, were negatived by large majorities.

A further amendment was then moved and carried, to add to the first member of the resolution, as agreed to by the House, the words, "together with the copy of any instrument in possession of the Executive, showing that the Spanish government has ordered the province of Louisiana to be delivered up to the commissary or other agent of the French government."

On the question, then, on the whole resolution as amended, it was rejected by fifty-nine votes to fifty-seven — a number of the Republicans voting with the Federalists for copies of the papers asked for.

There was another subject about which the friends of the administration felt little less anxiety than to secure the possession of Louisiana, and that was an amendment to the Federal Constitution regarding the choice of President and Vice-President. The subject was brought forward in the House of Representatives the day before the President sent his opening message, by a proposed amendment, by which, in all future elections of President and Vice-President, the persons selected for those offices shall be severally designated by the electors; and a few days later,<sup>1</sup> a further amendment was proposed, that the State Legislatures should lay off their respective States into as many electoral districts as they were entitled to electors, so as to make the mode of choice uniform throughout the United States.

the other two members of the resolution, only thirty-four voted affirmatively.

<sup>1</sup> October 20th.

The next day Mr. Clinton, of New York, proposed an amendment in the Senate, by which the President and Vice-President were also to be separately voted for. This proposition, after having been referred to a committee, and amended by the provision that if, when the election devolves upon the House of Representatives, and no choice is made before the fourth of March ensuing, the Vice-President shall then be President, subsequently<sup>1</sup> passed the Senate by twenty-eight votes to ten, and now constitutes the twelfth and last amendment to the Federal Constitution. It passed the House of Representatives after several attempts at amendment, by the constitutional majority of two-thirds, that is, by eighty-four votes, including the Speaker's, to forty-two.

Another amendment reported in the Senate by the select committee, that the President, after having served four years, should not be re-eligible till after the lapse of four years, was rejected in that body<sup>2</sup> by twenty-five votes to four. The amendment to the same effect was proposed in the House, but it requiring further legislation, was postponed by the Senate.<sup>3</sup>

The amendment to this part of the Constitution being a favorite purpose of the party in power, was in every stage of its progress opposed by the opposition, not without hopes that, from the large majority required to recommend it, it would be defeated; and they were, as we have seen, at one time, within a single vote of being successful.

A message from the President informed Congress that the Emperor of Morocco had committed an act of hostility against the United States, by the capture of an American vessel, but that the cruiser and her prize had

<sup>1</sup> December 2d.

<sup>2</sup> December 12th.

<sup>3</sup> December 16th.

both been captured by Captain Bainbridge. This act was soon after disavowed by the sovereign of Morocco.

Another message from the President<sup>1</sup> communicated to both Houses such statistical information respecting Louisiana as he had been able to acquire.

In consequence of a resolution of the Senate, calling upon the President for information respecting the violation of the national flag, and the impressment of American seamen, he communicated to that body<sup>2</sup> a letter from the Secretary of State, specifying all the cases of impressment which had come to the knowledge of that Department. The Secretary had no information of the violation of the national flag, except in the recent aggression of Morocco.

It appeared, by this report, that forty-three citizens of the United States had been impressed by the British, of whom twelve had protections. Ten were natives of the British dominions, and seventeen of other countries, none of whom were stated to have been naturalized.

Thus a practice which, even within the British dominions, violates the dearest rights of personal liberty, and which their courts have never ventured to justify, and which is excused and acquiesced in on the plea of necessity, was unhesitatingly exercised by British navy officers on board of American vessels; and, under the pretext of this tyrannical power against their own subjects, in places beyond their jurisdiction, they made American citizens its victims, with no other justification of the outrage than that from the resemblance between those citizens and British subjects, they could not always distinguish between them; and instead of making this uncertainty a ground of forbearance, they often required Americans, on board of American vessels, to prove their

<sup>1</sup> November 14th.

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<sup>2</sup> December 5th.

right to be exempted from those acts of violence, and in defect of such proof, made them the victims of their lawless power.

When one considers how many principles held in respect by civilized nations, and especially those who claim to be free, were violated by these impressments, and the odious servitude its American victims were made to undergo, it was to be expected that the subject would excite the liveliest indignation in the United States, and that nothing but their relative weakness could have hindered them from taking up arms to defend themselves from such a flagrant violation of right. But, not strong enough to obtain redress by war, they exerted all their means of diplomacy to defend themselves from such injuries, or, if that could not be done, to mitigate the evil. One of these modes was sufficiently humiliating—that of granting to Americans *protections*, as they were called; that is, formal certificates of their citizenship; by which they seemed indirectly to acknowledge that it behoved the American seaman, when on board of an American ship, to prove his citizenship, otherwise he might be assumed to be a British subject; and as a further aggravation, even these protections were sometimes disregarded, on the plea that they were occasionally obtained surreptitiously, or at least upon principles of international law, which, though insisted on by the United States, Great Britain did not recognize.<sup>1</sup>

It is, therefore, not to be wondered at that, on this subject, all party distinctions ceased, and the bill brought in for the protection of American seamen had the rare

<sup>1</sup> The United States claimed the right of giving to foreigners the rights of citizenship, while England denied that her native subjects could throw off their allegiance to the country of their birth.

fortune of being passed by an unanimous vote of the House.

All further questions about the possession or title to Louisiana were put to rest before the expiration of the year. It appeared by a communication from the President to both Houses,<sup>1</sup> together with the documents accompanying it, that, on the twentieth of December, 1803, Peter Clement Lausat, Colonial Prefect and Commissioner of the French government, formally surrendered the province of Louisiana to William C. Claiborne and James Wilkinson, Commissioners of the United States, appointed to receive possession, which had previously been delivered by the Commissioners of Spain to the Commissioners of France. This act of delivery was attested and recorded by an instrument reciting the material facts of the cession and the title, and was signed by the Commissioners of both nations.

On the same day, Governor Claiborne, of the Mississippi territory, who exercised the powers of Governor-General and Intendant of Louisiana, issued his proclamation, reciting the cession; assuring the inhabitants of the protection of the United States, as well as of the free enjoyment of their liberty, religion, and property; and requiring of them obedience to the laws and authorities of the United States; to which the Governor thought proper to add a special address to the inhabitants, enforcing the same topics, advising them to cultivate the advancement of political information, and assuring them of his own disposition to advance their interests.

The government had taken the precaution to order a large body of militia of Ohio, Kentucky, and Tennessee, to hold themselves in readiness, if called upon by the government;<sup>2</sup> and a part of those of Tennessee were

<sup>1</sup> January 16th, 1804.

<sup>2</sup> V. State Papers, page 20.

actually marched to Natchez; but their services being found unnecessary, they were ordered back.

Although there was never any serious question about the title of the United States to the province of Louisiana, it was not exempt from the common course of doubt and controversy as to its limits, both on the south-east and south-west, and which, as we shall see, subsequently gave rise to much discussion and negotiation with the Spanish government.

The province was, by a bill passed at this session, divided into two distinct territories — one of which was called the territory of New Orleans, and the other the territory of Louisiana.

Among the acts of Congress of this session, in which the parties found occasion to charge each other with inconsistency, now, when they had changed places as to political power, was one respecting the salaries of the members of the Cabinet, and some other officers. The act of 1799, which had raised those salaries, had now expired, and the party in power proposed to revive it; but the bill introduced for that purpose was opposed by the Federalists, in every step of its progress, as the preceding act had been by many of the Republican party. It, however, finally prevailed by the large majority of seventy-six to fifty-two. In truth, the salaries of the officers of the government had been confessedly too low in the first administrations, and that portion of public sentiment which is best entitled to respect had urged that greater liberality towards those functionaries was recommended by sound policy, as well as justice, long before the reform was made.

The bankrupt law, which had been enacted against the wishes of the Republican party in Congress, they now proposed to repeal. With the agricultural classes,

especially in the Southern States, this law had always been distasteful, as granting an invidious privilege to a particular class; but, for the same reason, it had been in favor with the mercantile community; and both these sentiments had been heightened by its practical operation. It was found that, in promptly subjecting the bankrupt's property to the payment of his debts, it had, by the insignificant dividends it afforded, been of no substantial benefit to the creditors, but that it had operated exclusively to the advantage of the debtors—enabling them to spunge off their debts, many of which had been fraudulently created with a view to the bankrupt's discharge: that it was, in many ways, prolific of fraud, wastefulness, and a wild spirit of speculation. But inasmuch as it was very inconvenient to the whole class of insolvent debtors, and those who were in danger of becoming such, and as the numerous Commissioners of bankruptcy, with their subordinate officers, added greatly to the power and patronage of the Executive, the Federalists, who always overrated this influence, and were more mindful of party policy than of a character for consistency, readily concurred with their opponents in voting for the repeal. The repealing act was accordingly carried by ninety-nine votes to thirteen.<sup>1</sup>

On the subject of the naturalization law, both parties were consistent. On the passage of the bill which revived the law that the Federalists had repealed, and reduced the term of residence from fourteen to five years, there were sixty-five ayes to thirty-eight noes—but few Republicans voting against the change, and perhaps not a single Federalist for it.

<sup>1</sup> This vote was given on the question of concurring with the Committee of the Whole, but it no doubt justly indicated the members who were for or against the repeal.

Besides the impeachment which had been ordered at the last session against Judge Pickering, of New Hampshire, an inquiry was instituted against the other Federal judges, with a view to the same procedure, which seemed to indicate either that this extreme medicine of the Constitution was either too readily resorted to, or that this branch of the Federal Government was not in a healthy state.

The judges against whom this inquiry was instituted were Samuel Chase, of Maryland, one of the Judges of the Supreme Court, and Richard Peters, District Judge of Pennsylvania. The Committee of the Whole, to whom the subject had been referred, reported that Samuel Chase should be impeached, and that Richard Peters had not so acted as to require the interposition of the House. On the first resolution, seventy-three voted for the impeachment, and thirty-two against it. The second was unanimously agreed to. Messrs. Randolph, and Early, of Georgia, were appointed a committee to impeach Judge Chase at the bar of the Senate.

For the trial of Pickering, the Senate formed itself into a High Court of Impeachment, on the twelfth of January, and, after a formal summons of Pickering, the examination of witnesses, and the arguments of the managers on the part of the House of Representatives and Pickering's counsel, he was declared guilty of drunkenness and other improper conduct on the bench, by twenty votes to nine. His son, who acted in his father's behalf, endeavored to defend his conduct on the plea of insanity; but it was overruled on the ground that his insanity was the result of his habitual intemperance.

In the latter part of the session, the claimants of public lands in the State of Georgia, under the Yazoo purchase, again pressed their claims with a prospect of suc-

cess. A proposition<sup>1</sup> to give to the Secretaries of State, and of the Treasury, and the Attorney-General, the power to compromise with the several companies of claimants, though earnestly opposed by Mr. Randolph and others, was passed<sup>2</sup> by sixty-two votes to fifty-six.

Leave was subsequently given to the Virginia Yazoo Company, and the South Carolina Company, to be heard by counsel at the bar of the House, and they accordingly were there heard on two or three occasions. Both these companies had deposited evidence in the office of the Secretary of State, in support of their claims, which was subsequently,<sup>3</sup> by resolution, laid before the House; but the House refused to give the same indulgence to the other complainants, considering them to be privy to the fraud and corruption of a majority of the Georgia Legislature.

A bill which was introduced in consequence of the resolution of the tenth of February, had been referred to the Committee of the whole House, and while the subject was then pending, Mr. Randolph offered a series of resolutions,<sup>4</sup> asserting

That the Legislature of Georgia had no power to alienate the soil of its vacant territory, except in a right-  
ful manner, and for the public good.

That when the governors of a people have betrayed the confidence reposed in them, by exercising their authority to serve their private ends, from base motives, and to the public detriment, the people may rightfully revoke the authority thus abused, and abrogate the acts of their faithless agents.

That it was in evidence before the House, that the act of the Legislature of Georgia of the seventh of January, 1795, appropriating a part of the unlocated

<sup>1</sup> February 9th.

<sup>2</sup> February 10th.

<sup>3</sup> January 23d.

<sup>4</sup> February 20th.

territory, was passed by persons under the influence of gross corruption, practised by the grantees of the law.

That the people of Georgia, indignant at this act of perfidy and corruption, did, by the act of a subsequent Legislature passed the thirteenth of February, 1796, which has since been sanctioned by the people, declare the act of 1795, and the grants of land under it, null and void: that it should be expunged from the records of the State, and publicly burnt—which was done, and provision made for restoring the pretended purchase-money to the grantees, by whom most of it had been drawn from the treasury of Georgia.

That a subsequent Legislature has an undoubted right to repeal an act of a preceding Legislature, provided such repeal be not forbidden by the Constitution of such State, or of the United States.

That the act of Georgia of February, 1796, was forbidden neither by the State nor the Federal Constitution.

That the claims derived from the act of January, 1795, are recognized neither by any compact between the United States and Georgia, nor by any act of the Federal Government. Therefore,

Resolved, That no part of the five millions of acres reserved for satisfying claims to the lands ceded by Georgia to the United States, shall be appropriated to compensate any claims derived from any act of the State of Georgia, passed in 1795.

These resolutions were referred to the Committee of the whole House, to whom had been referred, on the fifteenth, the bill for the settlement of the Yazoo claims.

The consideration of these resolutions was resumed on the tenth of March; and on a division of the question, the several claims were separately considered, and the question of postponing them was rejected by one or two

votes. On the question of postponing the third paragraph, there was a majority in the affirmative—fifty-four yeas to forty-nine nays; and on postponing the subsequent paragraphs, there were fifty-three ayes to fifty noes. On postponing the last resolution, there were fifty-four ayes to fifty-one noes.

Two days afterwards a motion was made to postpone the first clause to the first Monday in November, which was carried.

A motion was then made to postpone the bill which provided for the settlement of these claims, which motion was carried<sup>1</sup> by fifty-nine votes to forty-nine.<sup>2</sup>

The second amendment to the Constitution of the United States, for dividing every State into electoral districts, was not considered until the second of March, when the House refused to refer it to a Committee of the Whole.

The plan of a uniform mode of choosing electors of President and Vice-President is obviously one of justice, and the most likely mode of making those officers the choice of a majority of the people has never yet obtained a majority of votes in Congress. In some of the States,

<sup>1</sup> March 12th

<sup>2</sup> The popular prejudice, in some parts of the country, was very strong against those claims, which, originating in the grossest fraud, it was by many thought to be the safest course peremptorily to reject, and to disregard the distinction between the guilty venders of the grants corruptly obtained, and the purchasers without notice or knowledge of the fraud. At a public dinner in Richmond, about that time, in preparing the toasts, one was, "The Congress of the United States—may it *no longer be* the unblushing advocates of unblushing corruption;" when one of the committee proposed to modify it, so as to take away its courtesy, without altering the sentiment, "The Congress, &c.—may it *never be* the advocate," &c.: but his amendment was not received, and the toast was given as quoted.

the mode of choosing electors is by a general ticket, by which every citizen votes for as many electors as the State is entitled to, and by means of that preconcert which all political parties can effect, as all of the same party vote for the same individuals, the strongest party in the State can thus secure to itself all the votes which the State is entitled to. The same result takes place where the electors are chosen by the Legislature. But if the mode of choice was to choose by districts, it might easily happen that, in some of them, the party which was in the minority in the State would succeed in some of the districts. Hence, in the States where the choice is by the Legislature, or by general ticket, those who belong to the stronger party are unwilling to give up any portion of their local power, and are, of course, opposed to the change.

This mode of choosing the Chief Magistrate of the nation, is another illustration of human short-sightedness in framing Constitutions, and as to the practical operation of fundamental laws.

Those who formed that instrument, wishing to remedy the defect of personal knowledge of the merits of the candidates, to which the mass of the people might be supposed liable, and to guard against foreign influence on bodies of ignorant, venal men, thought it prudent not to give the right of election to the people directly, but to an intermediate body of electors, whom the State or the people were very competent to elect, and that the persons thus selected for their superior intelligence and merit would make a much better selection than the people were likely to do.

It was not then foreseen that the voters would not be willing to surrender the power they possessed; but by selecting not only such electors as agreed with them in

opinion, and who had, moreover, given pledges of their votes, the election was as truly made by the people as if there had been no intervening body of electors.

Near the close of the session, the President communicated to both Houses the unwelcome intelligence that the frigate Philadelphia had been wrecked off the coast of Tripoli; that Captain Bainbridge and his men had been made prisoners by the Tripolitans; and that this accident would make an increase of force necessary in the Mediterranean.

To meet the additional expense which would be thus required, a further duty of two and a half per cent. was laid on all imports from the Mediterranean, which duty was hence called the Mediterranean Fund. A loan of a million, in addition to the proceeds of this fund, enabled the government to despatch a force to the Mediterranean, which was sufficient to blockade Tripoli, and finally to compel its Bashaw to make peace.

Before, however, the reinforcement arrived, a bold exploit was achieved by Lieutenant Decatur and his associates, which gave their country glad assurances of the gallantry and success by which he and the American navy generally were soon to be distinguished.

According to a plan for destroying the Philadelphia, suggested by Bainbridge, while a prisoner in Tripoli, to Commodore Preble, a vessel captured from the Tripolitans, and called the Intrepid, was placed under the command of Lieutenant Decatur, together with the Syren sloop-of-war. The Intrepid entered the harbor of Tripoli in the night, and approaching the Philadelphia, Decatur boarded with sixty men, leaving twelve on board the Intrepid, between nine and ten o'clock in the night. The Americans, headed by Decatur, had just time to board her, killed the guard or drove them overboard, and set

fire to the ship, which, in her dry state, burnt with great rapidity, and the victors effected their escape without the loss of a single man, with only one slightly wounded. About twenty of the enemy were killed.<sup>1</sup>

The retrocession of that part of the District of Columbia which had been ceded by Virginia, in 1789, and also of that part of the District ceded by Maryland, in 1791, which was without the limits of the city of Washington, was proposed by two resolutions offered on the eighteenth of March ; but the subject was postponed till December. There was even a bill introduced for removing the seat of government to Baltimore, though the member who introduced it avowed that he did not wish it to pass, but merely to stimulate the inhabitants to improve the accommodations of the members. At that time the plan had been laid out for a city adapted to a million of inhabitants ; lots had been sold in various parts ; and groups of buildings, by being detached from each other, afforded the advantages of neither town nor country, and gave rise to the remark that it was a city of “magnificent distances.”

On the trial of the impeachment of John Pickering, Mr. Harper, who had presented a petition of Jacob S. Pickering, the son of the late Judge, alleging his father's insanity, and disclaiming all purpose of being the Judge's counsel, wished to appear in support of the petition, which asked for a postponement of the trial, and to be heard before the trial opened. He was then permitted to appear, on which the managers on the part of the House of Representatives withdrew. On a subsequent message from the Senate, they attended the Court, and presented the impeachment.

<sup>1</sup> See Decatur's account of the affair, Annals of eighth Congress, page 1637.

The bill to protect the commerce and seamen of the United States against the Barbary powers received an unanimous vote in both Houses.<sup>1</sup>

At a general meeting of the Republican members in February, in one of those informal conventions which had now obtained the designation of *caucus*, of unknown origin, Mr. Jefferson received the general vote of the meeting.

A bill supplementary to that creating a Bank of the United States, at New Orleans, having passed both Houses, and received the sanction of the President, it was, in after years, when the question of its constitutionality was revived and warmly contested, referred to as proof of Mr. Jefferson's acquiescence in the constitutionality of the bank, after it had so long been recognized by the several departments of the government, whatever might have been his original views.

Aaron Burr having long been suspected of a disposition to court his former opponents, and, availing himself of their discontents, to build up his ambitious schemes on a new basis, had thus become an object of jealousy with the Republicans, and some publications came forth, in which he was directly charged with having intrigued with the Federalists for the Presidency. He had brought a suit for a libel against one of the writers of this accusation, and the testimony then adduced served rather to strengthen than weaken the former suspicions against him. But while these imputations were injurious to him with one party, they served to recommend him to the favor of the other, and he was thought, by many of the Federalists, a desirable candidate for the office of Governor of New York, now that he was put aside by the Republicans as Vice-President. He might, they hoped,

<sup>1</sup> March 22d.

revolutionize the politics of that State, as he had done before in an opposite direction, and thus prepare the way for regaining a Federal ascendancy in the Union. Such, too, is the pliancy of party feelings, and so readily are former enemies converted into friends, and the contrary, that he would have been adopted into the Federal family, and, with the aid of personal followers, of whom he had many, have doubtless been elected Chief Magistrate of that State, but for a single individual, whose objections to him were insuperable. This was Alexander Hamilton, who had opportunities of knowing Burr intimately, and who believed him to have an inordinate ambition, to gratify which he would suffer no principle nor scruple to stand in his way. Hamilton and Burr had always belonged to opposite parties, and had also been rivals at the bar; and the ill feelings generated by their political and personal contests had probably a full share in the objections to Burr.

Accustomed, as Hamilton had been, to take an active part in the politics of New York, and ever frank in the expression of his sentiments, at a general meeting of the Federalists, he strenuously opposed the nomination of Burr, who, however, received the vote of the body of the Federalists; but the opposition of Hamilton had no doubt its accustomed influence with many in the election, and Burr was eventually defeated.

Imputing his disappointment to Hamilton, and, at all events, resenting his opposition, he sought an occasion or pretext for quarrel, and found it in one of the electioneering publications, in which Hamilton was said to have pronounced Burr a "dangerous man, who ought not to be trusted with the reins of government;" and the writer added, that "he could detail a still more *despicable* opinion" which Hamilton had expressed of Burr.

Two months after the election, Burr demanded of Hamilton an acknowledgment or denial of these expressions. A correspondence ensued, the result of which was a duel fought at Hoboken, in New Jersey,<sup>1</sup> in which Hamilton fell at the first fire, and died in the course of twenty-four hours.

His death produced the liveliest regret, and his party was considered to have sustained a loss next to that of Washington. Burr, who had lately lost the confidence of the Republican party, was now execrated by his new friends, and, to escape this general indignation, with the too probable sentence of the law, he left the State, and after remaining awhile in Philadelphia, he went by sea to Georgia. In this State and in South Carolina he remained until the meeting of Congress, when he resumed his seat as Vice-President of the United States, and began that course of intrigues which, brought to light two years afterwards, fully developed his character to the eyes of the world, and justified the opinion of Hamilton, his victim.

Public opinion had now so strongly declared itself throughout the Union in favor of Jefferson, that the Federal party abstained from hopeless efforts to defeat his election, and there seemed, in the summer, to be a temporary pause from the wonted agitations of party. The only matters of interest in the Federal relations were the operations of the squadron in the Mediterranean, under Commodore Preble; some symptoms of discontent exhibited by Spain on account of the cession of Louisiana; and occasional impressments of American seamen by the British.

Preble had been reinforced, after the loss of the Philadelphia frigate, with four other frigates and as many

<sup>1</sup> July 11th.

smaller vessels, which force was thought sufficient to invite or compel peace on the part of Tripoli. That town, after having been bombarded by Preble, was attacked by the American squadron, together with gun-boats and bomb-ketches obtained from the Neapolitan government, in which two Tripolitan gunboats were sunk, and three were captured. Two other attacks were made in August and September, which not only failed, but were attended with the loss of Lieutenant Somers, and his brave associates, by the premature explosion of a fire-ship. The squadron was then reinforced, but the rumor of renewed hostilities by Morocco made it necessary to detach a part of the force towards Gibraltar. The blockade was continued, but it was some months later before peace was made with the Bashaw.

On the twenty-fourth of September, the Secretary of State officially announced that the amendment to the Federal Constitution proposed by Congress had been approved by thirteen of the seventeen States, and was consequently made a part of that Constitution. The only States in the negative were New Hampshire, Massachusetts, Connecticut, and Delaware. Thus this important change in the Constitution was effected in less than nine months from the time it was proposed in Congress. But even this minority was not retained by the Federalists in the Presidential election. In Massachusetts, where the election by the Legislature could no longer withstand popular opposition, and where, in the expectation of obtaining its entire vote for the Federal party, the election by general ticket had been adopted, the whole Republican ticket prevailed by a small majority; so that the opposition obtained the votes of only the States of Connecticut and Delaware, and two of the eleven votes of Maryland, making in all fourteen votes for Charles C.

Pinckney, against one hundred and sixty-two for Jefferson—such had been the popular effect of his system of economy, and of lessening his own patronage—utterly disproving a favorite policy of Hamilton and the Federalists, that such power and patronage strengthened the Federal Government, and especially its Executive branch. When one looks into the journals of the day, it seems almost marvellous that Mr. Jefferson should have so gained in public favor in spite of the severity and ability with which he was assailed by his enemies; but, in truth, the intemperance of these enemies contributed, with Mr. Jefferson's really wise measures, to defeat their purposes; and the points on which he was really assailable were mixed up with so much that was false, or grossly exaggerated, that the whole was set down, even by many of the Federalists, to the ordinary malice of party warfare.

George Clinton, of New York, a man of unexceptionable private character, who had been Governor of the State, and had always belonged to the Republican party, was elected Vice-President, by the same number of votes as had been given to Jefferson.

Congress met on the fifth of November, and though the electors of President and Vice-President had not yet been chosen, no doubt was entertained either by Jefferson himself, or others, that he would be re-elected by an overwhelming majority. This conviction had the natural effect of producing in him a conciliatory spirit towards his political opponents, and of softening with most of them that opposition which was now found hopeless, and had hitherto benefited more than injured the object of it.

In his opening message,<sup>1</sup> the President states that the

<sup>1</sup> November 8th.

war lately rekindled in Europe had not been as calamitous to other nations as heretofore, nor so vexatious and injurious to American commerce in distant places, but had been more so in the American seas. Circumstances inspired confidence that our representations on this subject would be properly regarded.

But while complaining of other nations, he remarks, we should not afford them just cause of complaint against ourselves. Merchant vessels had armed within the United States to force a commerce which was inhibited by the laws of other countries. He trusts that Congress will take measures to restrain this irregularity.

That the establishment of a port of entry on the waters of the Mobile river having been misunderstood by Spain, she had suspended the ratification of the Convention of 1802. The explanations since offered, he says, may be reasonably expected to restore the dispositions which dictated the Convention. Her objections to the Louisiana treaty have been withdrawn.

The relations with the Barbary powers were pacific, with the exception of Tripoli, which, he trusts, will soon be desirous of peace, and also of Tunis, which exhibited some symptoms of discontent.

That the Indians in the neighborhood of the United States appear to be friendly. If our course towards them be always just, and our commercial intercourse with them be so regulated as to guard against incendiaries of our own, or of any other nation, they themselves will feel an interest in protecting our citizens from their own disorderly members. Instead, then, of a larger military force, he proposes an increase of the capital employed in our commerce with them.

He particularizes some important acquisitions of land ceded by different tribes east of the Mississippi. He says

that the act of Congress of February preceding, for building and employing gunboats, is now in course of execution. He dilates on their efficiency, and their greater cheapness, both as to the first cost, and their being more easily preserved from decay. He recommends an increase of their number, until all our important harbors should, by these and auxiliary means, be secured from insult and defiance of the laws.

That the finances continued to be prosperous. After meeting the expenses of the government, the revenue had been sufficient to pay off three millions six hundred thousand dollars of the public debt, making the whole amount extinguished, twelve millions of dollars. Three millions and a half more will probably be discharged in the following year.

That species of maritime defence which stood so high in Mr. Jefferson's estimation, and which he so earnestly recommended, still encountered violent opposition from the Federalists, which had more effect throughout the nation, because it was understood to be generally disapproved by the officers of the navy, to whom vessels of this character, uncomfortable and limited only to defence, were naturally distasteful. By way of making an impression on the public mind, Thomas Paine, whose pen had contributed so much to rouse and unite the American people, in the first years of the American Revolution, was induced to write in favor of gunboats; and he endeavored to show, in his direct and confident way, that seventy-four guns in seventy-four gunboats, would do twice as much execution as the same number could do, if placed in a single ship, and would not cost half as much money.

These and other efforts of the administration, aided by the great popular favor of Mr. Jefferson, concurred to

keep gunboats in use a few years longer, until they were brought to the test of actual warfare; when the united effects of a destructive storm, and the unexpected victories of the few frigates in the navy, brought them into a discredit with the nation, from which they have never since recovered.

But the error of Mr. Jefferson seems to have been not so much in the value he set on gunboats, as in wishing to make them the exclusive, or even the principal means of naval defence. They are good in their place, but are not capable of substituting ships-of-war. All the maritime nations of Europe, including Great Britain, have used gunboats for harbor defence; and Lord Nelson, who was always successful in his conflicts with fleets of ships, was signally foiled at Boulogne by gunboats.

Since the establishment of a permanent navy had been vehemently opposed by the Republican party, during Mr. Adams's administration, as incurring an expense not suited to the Federal treasury, and as affording no effectual defence against the overpowering naval forces of the principal nations of Europe, it is likely that the policy of such an establishment might have been opposed by many of the administration party, thus prejudiced, who would otherwise have seen its value; that others voted against it to avoid the charge of inconsistency; and that Mr. Jefferson himself, who had once thought ships-of-war indispensable,<sup>1</sup> knowing the opposition of his friends to an ordinary navy, was induced, by way of compromise between their objections and the wants of the nation, to propose this cheap substitute, when, by a natural process, in his efforts to convince others of its efficiency, he succeeded in convincing himself. He must have known, at that very time, that if he had trusted

<sup>1</sup> See "Notes on Virginia."

entirely to gunboats, American commerce must either have been driven from the Mediterranean by the Barbary cruisers, or have incurred a greater annual loss than would have supported a respectable navy.

One of the first subjects of importance at this session was the impeachment of Judge Chase. The articles of impeachment which had been reported by the Committee at the previous session, having been referred to the Committee of the Whole, were agreed to<sup>1</sup> with two amendments, but the next day those amendments were disagreed to by the House. The other articles, as originally prepared by the Committee, were separately submitted to the House, and obtained its sanction by the following majorities :

The first article charged him with conducting himself, on the trial of John Fries, in Philadelphia, in a manner arbitrary, oppressive, and unjust—

1. In delivering an opinion in writing, on a national question, before counsel had been heard in his defence.
2. In restricting counsel from citing English authorities on certain statutes of the United States, deemed relevant to his defence.
3. In debarring the prisoner from addressing the jury on the law, as well as the fact; by which course Fries was deprived of the right secured to him by the eighth amendatory article of the Constitution, and was sentenced to death. This charge was supported by eighty-two yeas to thirty-four nays.

The second article charged Chase with overruling, on the trial of J. Thompson Callender, in Richmond, Virginia, the objection of John Basset to serving on the jury, because he had made up his mind as to the publication with which Callender was charged, in consequence of

<sup>1</sup> December 3d.

which decision Basset was sworn, and Callender was convicted. In support of this charge there were eighty-three yeas and thirty-five nays.

The third charge was, that the Judge had excluded the testimony of John Taylor, because he could not prove the truth of the whole of one of the charges in the indictment (though the said charge embraced more than one fact). This was supported by eighty-three yeas to thirty-four nays.

The fourth article stated that the conduct of the Judge, during the course of Callender's trial, was marked by injustice, partiality, and intemperance.

1. In compelling the prisoner's counsel to reduce to writing, and submit to the Court, all questions that they meant to propound to John Taylor, the witness.

2. In refusing to postpone the trial, on affidavit of the absence of material witnesses, though it was manifest that the attendance of such witnesses could not have been procured.

3. In the use of unusual, rude, and contemptuous expressions towards the prisoner's counsel.

4. In repeated and vexatious interruptions of the prisoner's counsel, which induced them to abandon their client and his cause.

5. In an indecent solicitude by the Judge for the conviction of the accused, which was disgraceful to the character of a judge, and subversive of justice. This was supported by eighty-four yeas to thirty-four nays.

The fifth article alleged that the Judge had awarded a capias against the body of Callender instead of a summons, as required by the laws of Virginia, which the Federal Court was bound to observe in criminal cases. This was supported by seventy yeas to forty-five nays.

The sixth article charged Chase with ruling Callender

into trial during the term at which he was presented and indicted, contrary to the laws of Virginia, which furnish the rule in such cases. This was supported by seventy-three yeas to forty-two nays.

The seventh article states that, at a Circuit Court in Delaware, in June, 1800, Chase had descended from the dignity of a judge, and stooped to the level of an informer, by refusing to discharge the grand jury, alleging that he had understood that a highly seditious temper had manifested itself in the State, and especially bringing to their notice a seditious printer in Wilmington, and enjoining the District Attorney to get a file of the newspapers, and by a strict examination of them, find materials for prosecution. This was supported by seventy-three yeas to thirty-eight nays.

The eighth article stated that, at a Circuit Court in Baltimore, in May, 1802, he addressed the grand jury for the purpose of delivering to them an intemperate and inflammatory political harangue, with intent to excite the fears and resentments of the said grand jury and of the people of Maryland against their State government and Constitution, and also against the government of the United States. This was supported by seventy-four yeas to thirty-nine nays.

The next day the House elected, by ballot, seven managers, to conduct the impeachment, who were : John Randolph, of Virginia ; Caesar A. Rodney, of Delaware ; Joseph H. Nicholson, of Maryland ; Peter Early, of Georgia ; John Boyle, of Kentucky ; Roger Nelson, of Maryland ; and George Washington Campbell, of Tennessee. Subsequently, Mr. Nelson being excused from serving, Mr. Christopher Clark, of Virginia, was put on in his place.

A summons having been issued against the accused,

he appeared before the Court of Impeachment in person, and asked until the first day of the next term to put in his answer, and prepare for his trial. And on a motion to that effect, it was rejected by eighteen votes to twelve. The fourth of February was then appointed, by a majority of twenty-two votes to eight.

On the fourth of February, accordingly, Chase appeared, and requested that Robert G. Harper, Luther Martin, Philip B. Key, and Joseph Hopkinson might be admitted as his counsel; which being granted, his answer was read by himself or some of his counsel.

The managers having made a formal replication to his answer, the trial commenced on the ninth of February, and the House was occupied in the examination of witnesses until the twentieth, when the case was opened by the arguments of Messrs. Early, Campbell, and Clark, on the part of the managers. They were replied to by the counsel for Chase, and the argument was closed<sup>1</sup> by the managers, Messrs. Rodney, Nicholson, and Randolph. After a deliberation of two days, the Court pronounced its opinion on the eight articles *seriatim*; and each member of the Senate gave his judgment on each charge separately.

A concurrence of two-thirds in the guilt of the accused being necessary to convict, twelve votes of not guilty were sufficient to acquit. He was acquitted by the following votes:

On the first charge, the accused was pronounced not guilty by eighteen of the thirty-four members present; on the second charge, by twenty-four members; on the third, by sixteen members; on the fourth, by all the members; on the fifth, by twenty-eight members; on the sixth, by twenty-four members; on the seventh, by

<sup>1</sup> February 21st.

twenty-four members; and on the eighth, by fifteen members.

This trial excited the liveliest interest throughout the country. Judge Chase had long been obnoxious to the Republican party for his intemperate political zeal, and on that very account, rather than from any personal favor towards himself, his acquittal was most anxiously desired by their opponents. He had displeased some Federalists of the bench and the bar by pronouncing that the Common law of England constituted no part of the criminal law of the Federal Courts, by which decision he in part atoned with the Republicans for his party zeal. Nor were his Revolutionary services forgotten by many of those who were less swayed by party feeling. Yet, after allowing for all these considerations in his favor, public opinion may be said rather to have acquiesced in the justice of the decision than to have positively approved of it. His overbearing, brow-beating manner, more in the style of the English Jeffries than of an American judge, and his undisguised attempts to raise a laugh at the expense of a witness, or a lawyer who was counsel for the accused, all men could understand; and they were satisfied that, whatever might be his other qualifications, he wanted the dignity, propriety, and impartiality required for the faithful discharge of the weighty and delicate functions of a judge.

The trial was conducted with a solemnity and punctilious attention to forms that is unusual in the United States. Burr, who, as Vice-President, was also President of the Senate, was highly extolled by the Federalists for the dignity, ability, and impartiality with which he discharged his high duty; and the crime of murder, of which he had been found guilty by a grand jury of New Jersey on account of the duel with Hamilton, seemed to have been

forgotten by them, in the persuasion they had that his feelings were rather with them than with his former associates.

It was admitted by all that there was far greater ability exhibited in the defence than in the prosecution; and of those engaged in the former, Mr. Luther Martin, of Maryland, who had been a member of the convention which framed the Constitution, stood pre-eminent.

The disappointment and dissatisfaction felt by the managers at the result of the impeachment was very plainly manifested. Some hours after the judgment of acquittal, Mr. Randolph proposed an amendment to the Constitution, by which any Federal judge should be removable on the joint address of both Houses of Congress; and his resolution was carried by sixty-eight votes to thirty-three.

A second amendment was then proposed by Mr. Nicholson, by which the seat of any Senator of the United States might be at any time vacated by a vote of the Legislature of his State. This proposition, as well as that offered by Mr. Randolph, was referred to a Committee of the whole House, by large majorities, and both resolutions were made the order of the day for the first Monday in December. There was, however, no further action on either motion.

The bill which was introduced into the House for paying the witnesses on the trial, limited the appropriation to the witnesses summoned on the part of the United States; but the Senate having, by amendment, extended it to the witnesses on the part of the accused, and each House adhering to its first vote, the bill was lost. On the last day of the session it was moved, in the House, that the witnesses in support of the impeachment should be paid by the Clerk of the House out of its contingent fund; but no decision on the resolution could be obtained

for want of a quorum. At the next session, in an amendment to a bill from the Senate for paying every witness, the House, by an amendment, manifested the same disposition to discriminate as before, though by a smaller majority; but on a conference between the two Houses, it receded; and thus the bill was passed for paying all the witnesses without discrimination.

Petitions were again presented, at this session, from certain citizens of Massachusetts, and others, purchasers of Yazoo interests, praying that Congress would come to a determination of their claims, which having been referred to a Committee of the Whole, the subject there underwent the same warm discussion as in previous years. Mr. Randolph was as determined an opponent to these claims as ever, and had the support of a considerable portion of his party; and having, in the course of debate, passed some severe animadversions on Gideon Granger, of Connecticut, the Postmaster-general, who, as agent for a number of the claimants, had also presented a petition to Congress, Mr. Granger subsequently<sup>1</sup> addressed a letter to the Speaker, in which, after referring to the debate, wherein "his public and private character and conduct had been arraigned on the floor of the House," requested an investigation into his *official*, and, (if it should be the pleasure of the House) into his *private* conduct. A resolution was then offered to refer the petition to a select committee, which gave rise to a warm debate, in which Matthew Lyon, who had now become one of the advocates of the claimants, said "he had been belied by one of the members", whereupon he was called to order, and the call was sustained by the Speaker. Mr. Lyon attempted to proceed in the debate, but it was maintained that he was again out of order.

<sup>1</sup> February 1st.

The Speaker decided otherwise, and on an appeal from his decision, it was confirmed by the House by eighty-one votes to thirty-four. It was thus settled that a member who has been out of order in debate is not thereby precluded from proceeding in the discussion.

After the subject had been debated for several days, the Committee of the Whole reported a resolution, for appointing three Commissioners to receive offers of compromise and final settlement from the several claimants under the purchase from Georgia, within the limits prescribed by the convention with that State; which resolution was adopted<sup>1</sup> by sixty-three votes to fifty-eight: but the bill introduced in conformity with those resolutions, after having passed the first and second reading by small majorities, was not finally acted on during the session.

The subject of retroceding to the States of Virginia and Maryland all of the District of Columbia except the city of Washington, was again brought forward, and seemed for a time likely to succeed. The comparative discomfort which the members then experienced in its thin and scattered population probably had an influence on their votes, and led many to hope that the inconvenience sustained by the members might lead to a removal of the seat of government to one of the large cities; but as the Southern and Western States were opposed to such a change, and it would have been impracticable to unite the Northern States in favor of any one spot, all further attempts at removal were prevented, and the plan of retrocession failed. The main argument in favor of this measure was to restore to the people of the District, without the limits of the city, their great franchise of voting for representatives. Yet most of those

<sup>1</sup> February 2d.

very people were strongly opposed to the retrocession, and, by a memorial, made known their wishes to Congress.

A proposition was made to emancipate the slaves of the District born after a certain period; but it was rejected by seventy-seven votes to thirty-one.

Those troubles in the foreign relations of the United States which proved so embarrassing in subsequent years, began now to exhibit symptoms of their approach. On the last day of January, the President sent in a message to both Houses, in consequence of a resolution of the Senate, communicating a report from the Secretary of State, setting forth complaints both from Mr. Merry, the British Minister, and Mons. Pichon, the French *Chargé des Affaires*, that merchant vessels of the United States had there armed and sailed, for the purpose, as was believed, of forcing a trade with the blacks of St. Domingo, or Hayti, as it was now called by them.

These complaints gave rise to an act of Congress, by which all armed merchant vessels were required, on leaving the United States, to give security not to use their arms or ammunition in any way inconsistent with the laws or treaties of this country, and that such munitions should be brought back to the United States. Since the authority of the laws had sometimes been defied and violated by foreign ships within the harbors and waters of the United States, (as the President had hinted in his last message,) the Executive, by another act of Congress, was authorised to put in requisition both the regular forces and the militia, to carry into execution all criminal process against offenders. But they were to be first demanded of those with whom they had taken refuge. The President also had authority to admit, at his discretion, foreign armed vessels into the waters of the

United States, and, if expedient, to forbid all intercourse with them, and to compel their departure, by force. He might also interdict from the United States any officer of a foreign armed vessel who might have trespassed on any American ship, on pain of fine and imprisonment.

A law was also passed for the government of the Territory of New Orleans, giving the inhabitants a legislative power similar to that which had been previously provided for the Mississippi Territory. By this gradual extension to them of the rights of sovereignty, these Territories were duly prepared to discharge the high duties which would devolve on them when admitted to be members of the Union.

Indiana was also divided, so as to create the new Territory of Michigan.

The last act of the session was to reward Commodore Preble and the officers and men under him, who had so well sustained, in the Mediterranean, the honor of the American flag. A gold medal was awarded to the Commodore, swords were given to the commissioned officers, and two months extra pay to all the inferior officers and men. Honorable mention was also made of Lieutenant Somers, and Midshipmen Wadsworth and Israel.

The third of March terminated the session, together with Mr. Jefferson's first Presidential term.

We may now inquire what had been the progress of the United States during those four years. By far the most important fact of their advancement had been the acquisition of Louisiana, by which their territory was doubled; and which, without supposing a dense population, was sufficient to support one hundred millions of people in comfort and abundance. The danger of war with France and Spain, which was imminent in 1802,

had been averted, and the hazards of a neighbor at once powerful, restless, and ambitious, was for ever removed.

Though this acquisition had cost the United States fifteen millions of dollars, of which three millions five hundred thousand dollars were to be paid to American citizens, and which they had no other chance of recovering soon, if ever, yet twelve millions of the public debt had been paid off, and this too, not only without additional taxes, but when all those that were internal had been taken off, and a host of officers, who had been employed in their collection, had been discharged.

War had been successfully waged against the piratical States of Barbary, by which Tripoli had been chastised, and Algiers and Tunis had been awed into peace overtures in conformity with their previous stipulations, or with their former treaties, which they had attempted to violate.

The Indian tribes in the immediate vicinity of the United States had ceded valuable and extensive tracts of land, which, instead of supporting one human being to the square mile, as they barely then did, were destined, in a generation or two, to support one or two hundred. At the same time, measures were adopted to introduce among them husbandry, and other useful arts, by which they might be gradually formed to habits of civilized life.

The two laws, the Alien and Sedition acts, by which a large majority of the nation believed the Constitution to have been violated, had been repealed, and those who had been punished under them, or rather under the Sedition act, were released from the penalties incurred, as far as was then practicable.

With these various and substantial benefits, what was the alloy? — for good, pure and unmixed good, is not to

be expected in a long series of human events. The repeal of the judiciary law passed in Mr. Adams's administration will be readily placed in this category, not only by the whole Federal party, but by a large portion of the friends of the Administration, who had been accustomed to regard the independence of the judges, both in reference to the Legislature and the Executive, as one of the safeguards of Republican government ; and who saw, in this repeal, a determination to overleap the barriers provided by the Constitution, for the sake of disappointing and thwarting their political opponents. If the Sedition law had infringed the Constitution, according to the obvious common sense meaning of that instrument, and had been justified by its friends only by great subtlety and refinement of reasoning, the same thing might be said of the repeal of the judiciary act—it having been the apparent intention of the framers of the Constitution, that when once an individual was appointed a judge, to make him a fearless minister of justice, he was to be placed above the reach either of the Executive or the Legislative powers, so long as he discharged his duties faithfully ; and those who regarded the great fundamental charter formed by the people for their own guidance, as well as that of their agents, with sentiments of loyalty and veneration, saw with concern, that both the great political parties of the country had not hesitated to give a latitudinous construction to that instrument, when such construction seconded their purposes or wishes.

Even the splendid addition which Louisiana made to the national domain, afforded similar cause of regret to many who thought, as Mr. Jefferson was inclined to do, that a permanent incorporation of foreign territory into

the Union was beyond the prescribed powers of the Federal Government.

A larger and more diversified experience has since taught us that a written constitution which will plainly provide for every case that may happen, so as to afford no room for a difference of construction, even among men honestly pursuing truth and right, or that will not be disingenuously strained beyond its more obvious meaning by a majority to serve a present purpose, is an illusion — a mere vision of fancy, utterly inconsistent with the inherent imperfection of language, the inadequacy of human foresight, and, more than all, with the predominant sway of human passions and interests. Still, every right-minded man will use his efforts to keep the course of the public authorities as near to this ideal standard as he can.

One unquestioned good consequence of the change of parties which had recently taken place was, that the mass of each of them was led, in some measure, to correct the unfavorable opinion they had formed of each other. The Federalists now found that, with their opponents, the desire of a closer fraternity with France, and a mean subserviency to her views, had no existence; and that if, in the system of economy pursued by the new Administration, a part of the Federal policy had been thwarted, the most important features of that policy — the honest discharge of the public debt, the encouragement and protection of navigation and commerce, and all the operations for national defence — had been, contrary to their fears, preserved unimpaired, and almost untouched.

The Republicans learned, too, when in possession of power, that many of the previous measures of government which they had unhesitatingly condemned were,

if not necessary, at least excusable. They learned, more especially, that when those who exercised the powers of government were straining every nerve to promote the public welfare, their acts and their motives were assailed by unsparing calumny; that their most patriotic and disinterested purposes were attributed to a calculating and unprincipled love of power; and that, in a spirit of vindictive bitterness, the meaner tools of faction did not hesitate to enlist falsehood in the cause of malice. Each party then found that the faults of their adversaries fell far short of their previous impressions. This remark, however, applies only to the more liberal and temperate men of each party, who were not in the vortex of active politics—for with the busy partizans, whether high or low, such was the force of their prejudice and deep-seated hatred, that nothing was able to destroy, and scarcely time itself could weaken, their hostility.

## CHAPTER XIII.

### JEFFERSON'S ADMINISTRATION.

SECOND TERM.

1805—1807.

IN Mr. Jefferson's second inaugural address, he tells his fellow-citizens that, on a former similar occasion, he declared the principles on which he meant to administer the government; and his conscience assures him that he had acted up to that declaration, “according to its obvious import, and the understanding of every candid mind.”

That, in all transactions with foreign states, the administration had endeavored to cultivate their friendship, and to treat them with justice — convinced that with nations, as with individuals, their real interests are inseparable from their moral duties.

He adverts to the various retrenchments in the public expenditure; to the consequent reduction of the taxes, and the discontinuance of officers employed in their collection. The revenue levied on the consumption of foreign luxuries he declares sufficient to pay the expenses of the government, to fulfil all contracts with other nations, to extinguish the right of the aborigines in the soil, and to put by such a surplus as will redeem the public debt at an early period. The revenue thereby liberated may, by an amendment to the Constitution, when distributed among the States, be applied, *in time*

*of peace*, to rivers, canals, roads, arts, manufactures, education, and other great objects; and *in time of war* may, with other aids, meet the whole annual expenditure within the year.

Referring to the purchase of Louisiana, and the probability of its paying for itself before the purchase-money becomes due, he denies that the territory thus extended is too large for the Federal Government, and though it were, it is far better that the western bank of the Mississippi should be settled by our brethren and children than by strangers.

He has, on all occasions, followed the rule of duty prescribed by the Constitution, of not interfering in matters of religion. He has endeavored to fit the aborigines for those relations in which they are now placed, by weaning them from the hunter state to the pursuits of agriculture and the domestic arts. They are also covered with the ægis of the law against aggressions from our own citizens. He adds, with a sly innuendo towards the taunts of his adversaries against himself, that his plans of ameliorating the condition of those people found great obstacles in their own prejudices in favor of their ancient habits, and aversion to all innovation; for "they, too, have their anti-philosophers, who find an interest in keeping things in their present state," and who dread all reformation.

He disdains arrogating to himself the merit of the public measures which he has mentioned, which is due to the good sense of the citizens at large who select fit representatives; to those representatives themselves; and to his own able and faithful auxiliaries.

He adverts to the licentiousness of the press, by which he and his associates had been assailed; which abuses of an institution so useful to freedom and science, he

says, are deeply to be regretted, as calculated to lessen its usefulness, but that its punishment had been left solely to the public indignation. He adds, with seeming exultation, that the experiment lately tried, whether freedom of discussion was sufficient for the diffusion and protection of truth, had been completely successful, and the people had, by their suffrages, pronounced their verdict in favor of those who had served them, but who had been calumniated. He admits that defamatory publications should not escape punishment, but merely affirms that punishments are not necessary, and that the public judgment would be sufficient to correct false reasonings and opinions.

He congratulates the country on the union of public sentiment then manifested, and anticipates that those "not yet rallied to the same point," when satisfied of the wish of the administration to promote the public good, will in time approve and support them, so as to give to the country that entire union of opinion which secures "the blessings of harmony, and the benefits of all its strength."

It was quite clear from this address, so large a part of which was on the licentiousness of the press, that the attacks of his enemies had been keenly felt, and that the implied vindication of his course and his character by so large a majority of his countrymen as had voted for his re-election, did not entirely console him for the vituperations of the minority.

But this tax of public censure, from which no magistrate of a free country can be long exempt, and which, in the height of his popularity, caused him so much pain, was soon followed by more serious vexations and embarrassments.

The Republicans, now that they had prostrated their

opponents, no longer finding occupation in party contests, began to divide among themselves—for, unhappily, the sources of discord among men are so varied and potent, that large masses of them can rarely long preserve harmony, unless they are kept together by a sense of common danger, or to co-operate for a common purpose; and thus it is a law in the dynamics of party, that the consciousness of overpowering strength naturally leads to division and weakness.

In New York, Pennsylvania, Virginia, and Kentucky, where the Republican party had the undisputed ascendancy, there were already dissensions, which, though seemingly local in their objects, were also characterized by the greater or less moderation of their Democratic principles, and of course there was danger of the more moderate coalescing with the Federalists. This danger was distinctly seen by Mr. Jefferson, and it required all the caution and address he was master of to keep the main body of his party together.

The foreign relations of the country, hitherto not seriously disturbed, except by the piratical states of Barbary, began again to be threatened by the chief maritime powers of Europe. The impressment of American seamen by British cruisers, not at all checked by the remonstrances of the American government, was a growing source of irritation and complaint. Nor was this the sole subject of remonstrance against Great Britain. She plainly showed a disposition to narrow the limits of the commerce of neutrals, by denying to them the right of carrying on a trade with belligerents, which she did not interdict to her own subjects.

Under what was called, in the British courts of admiralty, the rule of 1756, it was maintained that, as by the permanent colonial system of France, no foreign nation

could trade with her colonies, she could not give this right to neutrals during war, as that permission would have the effect of enabling her to elude the maritime superiority of Great Britain; and that the neutral, in undertaking to carry on a trade with a belligerent which that belligerent could not carry on for itself, departed from its neutrality, and consequently forfeited the privileges of a neutral.

This doctrine was far from being generally admitted, but had it been unquestionable as a general rule, its force was annulled by the present circumstances; for Great Britain permitted her own subjects occasionally to furnish the colonies of her enemies with the supplies they required; and thus rendered to them all the assistance the neutral could do; and the interdict on the neutral did not have the pretended justification of distressing the enemy, but was plainly resolvable into a rivalship in trade, which could give them no right to interfere with the neutral either in peace or war. No neutral could admit that when a place was blockaded, and all other nations were forbidden to carry supplies to it, the blockading nation itself might furnish those supplies. Nor could it be doubted that such a course in a belligerent would be sufficient to take away all pretexts to complain of other nations for the violations of blockade. A continuance of these grievances, it was believed, was more than the American people would long endure.

The Spanish nation, too, continued to manifest the same feeling of discontent it had exhibited ever since the purchase of Louisiana, and under various flimsy pretexts it obstinately refused to adjust the boundary line between Louisiana and Florida. The American government, knowing how thorough the ascendancy of the Emperor Napoleon was at Madrid, naturally apprehended that

these difficulties on the part of Spain were made with the approbation of Napoleon, and were even prompted by French diplomacy, so that they might at any time be improved into a cause of war, if policy should so recommend, or into an attempt to make a new exaction of money, for which France was known to have the most pressing necessity.

Mr. Jefferson, on due consideration of those circumstances, was disposed at once to enter into a negotiation for the purchase of Florida, which he naturally supposed the French Emperor would favor; but by the advice of his more cautious Cabinet, it was decided that so important a negotiation should have the previous sanction of Congress.

Amid these difficulties in the foreign relations of the United States, it afforded some satisfaction that the war with Tripoli had, in the course of the previous summer, been brought to a favorable termination. Jussuf, the reigning Bashaw of Tripoli, having deposed his elder brother Hamet, and driven him into banishment, William Eaton, the American Consul at Tunis, believing that, by a co-operation between the United States and Hamet, the latter might be restored to power, and an advantageous peace be made with the United States, he returned home in 1803, and prevailed on the government to favor his scheme. With this view, he was appointed navy agent, and Commodore Barron, who commanded the Mediterranean squadron, was authorised to enter into arrangements with Hamet, if he deemed it expedient, to aid him with arms and ammunition, even with money, and to employ Eaton in the project.

Accordingly, on Eaton's arrival in the Mediterranean, the negotiation with Hamet, as well as the land operations which might be found necessary, were confided

to him. Being enterprizing and ambitious, he soon figured as the chief agent in the scheme. He proceeded to Egypt, where Hamet then was, entered into a convention with him,<sup>1</sup> by which Hamet engaged, when restored to power, to liberate the American prisoners in Tripoli without ransom, and never afterwards to make slaves of American prisoners; and to repay the pecuniary advances to him, he pledged the tribute received from other European nations for this purpose, and made other liberal provisions. Eaton, then, in the character of General, at the head of about four hundred men whom he was able to enlist in Egypt, marched across the desert to Derne, on the eastern limit of the Tripolitan territory, which soon yielded to a joint attack of Eaton's force and a part of Barron's squadron, and they kept possession of the town, which then had a garrison of eight hundred men.

The success of this expedition, the daring character of which, as well as the amount of force under Eaton, had been grossly exaggerated at Tripoli, inclined Jussuf to peace. Overtures were consequently made by him to the American Consul with that view; and it being soon found that Hamet had greatly overrated the number of his adherents, that he had no resources of his own to wage a further war with his brother, but must rely altogether on those of the United States, and that he was without energy or military talent, Jussuf's advances were readily met by Eaton, and a treaty of peace was made, by which an exchange of prisoners was agreed on; and as Jussuf had about two hundred more than the Americans, he was to receive sixty thousand dollars. The only provision in the treaty for Hamet was that his wife and children, who had been retained by Jussuf, were to be

<sup>1</sup> February 23d, 1805.

restored to him. Both he and Eaton thought that the United States had not availed themselves of their means, which had been reinforced, of bringing Tripoli to terms, and consequently had not acted with good faith towards Hamet; and on Eaton's return to the United States, the merits of his exploit were greatly magnified, and it suited the Opposition to maintain that the government, in not fulfilling his engagements with Hamet, had treated him ill, as well as lost the fruits of his services, by which means Eaton, nothing loth to be regarded as an ill-remunerated hero, was soon ranged among the class of malcontents.

The ninth Congress met on the second of December, and chose Mr. Macon Speaker, though not until after three ballots, thus exhibiting a further evidence of a want of harmonious feeling and action in the majority. Mr. Varnum, of Massachusetts, received twenty-seven votes.

In Mr. Jefferson's opening message to Congress, the next day, he first noticed the yellow fever, with which New York and Philadelphia had been visited in the preceding autumn. He spoke of quarantine laws as burdensome on commerce, and says that the question of their efficacy merited legislative investigation. He remarked that the foreign relations of the United States had been materially changed since the preceding session: that their coasts had been infested with private armed vessels, which had perpetrated acts beyond their commission. They had captured, at the entrance of our harbors, vessels of friendly nations, and even those of our own. They had, occasionally, committed acts of piracy. He found it necessary to equip a force to cruise in our own seas, and to arrest such offenders. Similar annoyances had been experienced from public armed ships. New principles had been interpolated in the law of nations,

by which a belligerent takes to itself a commerce with its enemy, which it denies to a neutral. It was due to ourselves to provide an effectual opposition to a doctrine which is as injurious as unwarranted.

That our differences with Spain were still unsettled. Spoliations of American commerce, which she formerly acknowledged to be unwarranted, she now refuses to be responsible for. To our propositions for an amicable adjustment of boundary she had not acceded. Inroads had been made on the territories of New Orleans and the Mississippi; our citizens had been seized, and their property plundered. Orders had been given to our troops on that frontier to repel force by force. As some of these injuries could be repressed in no other way, we ought to prepare for that result. Our seaport towns should first be placed beyond the reach of insult. They should be provided with heavy cannon, and a competent number of gunboats. He suggested such a classification of the militia, that the younger portion might be called out on an emergency. The census showed that we had more than three hundred thousand men between eighteen and twenty-six years of age. There had been collected materials for the construction of seventy-four gun ships, subject to the will of the Legislature. He mentioned the peace made with Tripoli, and the liberation of our prisoners.

That the neighboring Indians were advancing in husbandry, and household manufactures. He mentioned several large purchases of land made from them.

The receipts into the treasury, to the thirtieth of September, had exceeded thirteen millions of dollars. Nearly two millions of the debt contracted under the British treaty, more than four millions of the principal of the public debt, and four millions of interest, had been paid off. The money which the administration had been

authorised to borrow, towards meeting the claims of our citizens against France, and assumed by the United States, it had not been found necessary to use.

Three days afterwards,<sup>1</sup> the President sent a confidential message to Congress, on the subject of the misunderstanding with Spain.

It appeared, from this message, that Spain had, by her convention with the United States in 1803, agreed to pay for the spoliations on American citizens by her subjects, and that those committed by French subjects in her ports should remain for further discussion; but that, after the cession of Louisiana to the United States, her disposition towards them had changed. This was first manifested by her protest against the right of France to make the cession, which, however, she soon retracted, and the right was confirmed; then, by the offence she took at the establishment of a collection district on the Mobile, though it was admitted to be within our limits; and lastly, she refused to ratify the convention made at Madrid, unless we would consent to alter its terms, by which the claims of American citizens for French spoliations would have been impaired.

That a special Mission to Spain was deemed advisable, and James Monroe had been appointed to that office, to act in conjunction with the Minister resident. The policy of Spain seemed to be to keep the question unsettled. After a delay of five months, the American Minister had ended the conferences, without obtaining indemnity for spoliations of any kind, or any admission that was satisfactory as to the boundaries of Louisiana. Her agents seem determined to advance on our possessions until they were repressed by force, the power of doing

<sup>1</sup> December 6th.

which properly belongs to Congress. The American officers were instructed to protect our citizens.

That France had promptly insisted that our demands for French spoliations in Spanish ports were included in the settlement between the United States and France. That she had received no territory from Spain east of the Iberville, and of course had conveyed none to us. There were no indications that she looked to a rupture between Spain and the United States; on the contrary, she appeared to favor a settlement upon the plan our Minister had proposed.<sup>1</sup> The present seemed to be a favorable moment for pressing such a settlement. Both policy and the honor of the country require that force should be interposed, and it would probably advance the object of peace. But the means to effect it, it belongs exclusively to Congress to grant or deny.

With the message were sent sundry documents showing hostile acts of Spanish armed vessels and gunboats, both in the Mediterranean and the West Indies. It would seem, too, from the letters of Claiborne, the Governor of the New Orleans Territory, that the Spanish officers regarded a retrocession of the country west of the Mississippi as highly probable.

The day the message which related to the conduct of Spain was received, it was referred to a select committee of seven members, of whom John Randolph was chairman.

The next meeting in secret session took place on the third of January, on the motion of Mr. Randolph, who then, as chairman of the select committee, made a report, in which the committee express their indignation at the hostile spirit manifested by the Court of Madrid towards the United States, in withholding the ratifica-

<sup>1</sup> The purchase of Florida.

tion of its convention with us; in piratical depredations upon our fair commerce; in refusing to adjust the boundaries of Louisiana; and in a daring violation of our undisputed limits: that these acts of Spain afford ample cause of war; and that, notwithstanding the desirableness of peace, they ought, on the principle of self-defence, to be repelled. With this view they offer a resolution, that "such a number of troops as the President of the United States should deem sufficient to protect the Southern frontier from Spanish inroad and insult, and to chastise the same, be immediately raised;" which was referred to the Committee of the Whole.

Two other resolutions were then offered by Mr. Bidwell, of Massachusetts, who was considered to have the confidence of Mr. Jefferson, by the first of which an appropriation was made for the purpose of defraying any extraordinary expenses incurred in the intercourse between the United States and foreign nations, to be applied under the direction of the President, who was authorised to borrow it: and by the second, a duty of two and a half per cent. was to be added to the impost which constituted the Mediterranean Fund: and all of the resolutions were referred to the Committee of the Whole.

The first resolution (that offered by the select committee) was deemed, by the friends of the administration, likely to bring about a war with Spain, and eventually France; and the second, offered by Mr. Bidwell, had been suggested as the means of preventing a war, by enabling the United States to purchase Florida. The resolutions, both of the committee and of Mr. Bidwell, were warmly debated in secret session until the eleventh of January, when, on the first resolution, for raising troops, there were seventy-two votes in the negative to

fifty-eight in the affirmative. The minority comprehended all the Federalists, and some fifteen or twenty members who had previously voted with the Republican party.

This schism in the party, now first made manifest to all, was mainly attributable to Mr. John Randolph, and it was thus accounted for by his former associates, from whom he had seceded. One of his colleagues, Christopher Clark, hearing Randolph speak of making a visit to Europe, supposed that the place of Minister to England would be very agreeable to him, and, uniting with other of Randolph's personal friends, pressed his appointment on the Administration; but they not having confidence in Mr. Randolph's temper or discretion, he having given offence to many of his own party by his haughty and overbearing demeanor, as well as by his bitter denunciations against some of the favorers of the Yazoo compromise, objected to the appointment. The applicants, then, by way of enforcing their request, threatened "to coerce the administration" into the measure, on which they peremptorily refused to make the appointment.

Though it was found that this application was made without any consultation with Randolph, and even, perhaps, without his privity, yet to his proud spirit, flattered as it had been by his leadership in the House, and his unrivalled success as a public speaker, the indignity was the same, and was followed by the same lively resentment. In this report on Spanish affairs, and the debates which succeeded it, he first showed his opposition to the administration, and he never afterwards was reconciled to it. Having warm personal admirers, he carried with him some fifteen or twenty of the party, half of whom were his colleagues; but the greater part of them soon rejoined their party, leaving only some six or eight, who,

disclaiming their adhesion to the Federal party, always gave their votes to it.

The resolution respecting the appropriation of money, which had been offered by Mr. Bidwell, for the purchase of Florida, after much debate as to the phraseology, finally passed<sup>1</sup> by seventy-seven votes to fifty-four, and the sum of two millions of dollars was appropriated, not in terms for the purchase of Florida, but for "extraordinary expenses of foreign intercourse."<sup>2</sup>

The Opposition were bent on specifying the precise purpose of the appropriation, with a view of fixing on the President the charge of inconsistency, since, they said, in his message of the sixth instant, he had spoken of the conduct of Spain in terms of indignation, and had even recommended to Congress to interpose force for the protection of American citizens, but that an offer to compromise her injuries by money was an abandonment of the ground previously taken ; and that if the President now wished that course adopted, he ought, they said, to assume the responsibility of it ; and should not, while he seemed to defend the national honor, seek to throw upon Congress the odium of offering to purchase what they might rightfully demand.

On the same day the Opposition, apparently to have another chance of frustrating the purposes of the administration, proposed an exchange of territory with Spain, by giving her part of Louisiana, adjoining Mexico, and receiving in return territory to the eastward of the Mississippi. This proposition was carried by eighty votes against fifty-two, in consequence of a few of the warmest friends of the administration voting for it.

The next day an attempt to take off the injunction of secrecy was rejected by a party vote of seventy-eight

<sup>1</sup> January 14th.

<sup>2</sup> V. Journals of the House, pages 436-7.

votes to forty-nine. A similar motion was made, on the seventeenth, to publish the resolution for an exchange of territories, and also rejected by sixty-four votes to forty-six.<sup>1</sup>

The majority, after informing the President of their resolutions for the exchange of territories, and also for the purchase of Spanish territory, decided, on the twenty-first of March, that their proceedings in secret session should be published.<sup>2</sup>

It soon became known, out of Congress as well as in it, that Mr. Randolph was no longer to be reckoned among the supporters of the administration; and he at once became the theme of harsh animadversion with many of the Republican journals, and of unwonted eulogy with the Federalists, for, though he disclaimed belonging to their party, he had the next greatest recommendation in their eyes, of hostility to their adversaries.

About a fortnight<sup>3</sup> after the House decided on publishing the secret journal, Randolph, with the view of justifying himself with the nation, and yet more, perhaps, of injuring Jefferson and Madison in the public estimation, proposed to amend the secret journal by inserting the President's message of the sixth of December, for the ostensible purpose of making the secret journal intelligible to the public. The motion, and the speech which accompanied it, gave rise to a warm and protracted party debate, and was doubtless so intended by the mover. He then asserted that the Secretary of State had, in a conversation with himself, declared that France was the great obstacle to the compromise of Spanish differences; that she would not permit Spain to come to any accommodation with us, because France wanted money, which

<sup>1</sup> See Annals of Ninth Congress, page 1116.

<sup>2</sup> Ibid. page 1143.

<sup>3</sup> April 5th.

we must give her. That he regarded this as a “base prostration of the national character,” to excite one nation by money to bully another nation out of its property; and that his confidence in the man who entertained such sentiments was gone forever.

In the course of the discussion, Mr. Randolph denied that there was any party in the House in favor of war; that a majority of the select committee were neither for giving money, nor making war; but were merely for defending the limits of the old United States. He intimated that the Hornet sloop-of-war had taken out the money not to Spain, but to France. He said that France had threatened the United States with her hostility if we made war on Spain; and lastly, that our hostile attitude towards Great Britain was a dastardly accommodation to the wishes of France.

The administration were zealously defended by Messrs. Findley, Fisk, Jackson, Eppes, and Campbell of Tennessee, some of whom indignantly repelled the charge brought against Mr. Madison, of wishing to bribe France to bully Spain. Mr. Randolph was partially supported by Mr. Clay, of Pennsylvania, and one or two others, but his motion to insert the President’s message was rejected by seventy-four votes to forty-four.

This attack on the two most prominent members of the Administration made but a slight impression on the great body of their party. It appeared, from the debates in Congress and the publications of the day, that their measures were thus vindicated: while they admitted that the course pursued by Spain would have justified the United States in coming to an open rupture with her, they urged that our policy had always been, on such occasions, not to appeal to arms, in the first instance, but to negotiation; as with England in 1794; with France in 1798;

and subsequently in 1802. That the influence of France over Spain could not affect the character of the proceeding. We should make the negotiation with Spain, the proprietor of Florida, and pay her the purchase-money. It did not concern us whether she used the money herself, or paid it over to France. Nay, if we were sure that France was to receive the money, that furnished an additional argument in favor of a course which was likely to secure her good offices in procuring for us an acquisition so valuable in itself, and so auspicious to our peace. It was a singular objection to a measure of national policy, that it sought to profit by the weakness of an enemy or a rival.

It was denied that France had uttered any threat. She had merely, in answer to our inquiry, whether, in case of a war with Spain, we should also be involved in a war with her, answered in the affirmative. The objection derived from our neutral duties was denied to have any force, since if neutrals may buy or sell merchandize with a belligerent, *a fortiori*, they may buy of him his territory, and its inhabitants — the main sources of his strength.

It was further insisted that the means pursued by the Executive had been as prudent and proper as the measure itself. The President had communicated to Congress the wrongs committed by Spain, to whom alone belonged the power of avenging them; but, at the same time, he had suggested that a pacific settlement might probably be effected by negotiation; and he had intimated the character of that negotiation; so that there was no pretext of his shrinking from responsibility. Nor was the charge of withholding Mr. Monroe's despatches more tenable, as they principally concerned our affairs with Great Britain, and no farther related to Spain than

that therein he signified his opinion that France would, in case of Spain being at war with the United States, make common cause with her ally. It was shown that a knowledge of these despatches would have had no influence in preventing the appropriation of the two millions, as that did not take place till after the despatches were published: and it was denied, on the authority of Mr. Gallatin, that the Executive had attempted to draw money from the Treasury without an appropriation.

It was an apparent object of the minority to defeat the purchase of Florida; and, if so, their purpose was effected, partly by reason of the delay they had caused in furnishing the means, and partly by the altered state of Europe produced by the peace of Presburg of the previous year.

Mr. Madison took no further notice of Randolph's accusation against himself, which, for a time, made an impression on the public, than quietly to state to his particular friends that he did not remember the precise words used by him in the conversation to which Mr. Randolph adverted; but he was confident he had said no more than that, by reason of Bonaparte's known want of money, and his influence over the counsels of Spain, we might make an advantageous purchase of Florida; and that we ought to profit by the circumstances. It suited Randolph to pervert his remarks from their fair sense, by way of lowering him in the public estimation, as he had already decided to prefer Monroe to Madison as the next candidate for the Presidency. Subsequent events showed that this accusation was either not credited by the nation, or not regarded, though supported by the biting, reckless sarcasm, and no ordinary oratorical powers, of Randolph.

In compliance with a resolution of the Senate, the President had, on the tenth of January, sent a commu-

nication to that body, relative to the trade then carried on from the United States with St. Domingo, by their citizens, of which trade the French government had earnestly complained. Those complaints had been made not only here by the French minister Turreau, but also in Paris by Talleyrand to General Armstrong, the American minister — the negroes of that Island being in a state of revolt.

After some opposition and debate, an act was passed which prohibited all commercial intercourse between the United States and any part of the Island of St. Domingo, under the government of France, on pain of forfeiting both the vessel and cargo. But a discretion was given to the President to discontinue the restraints and prohibitions imposed by the act.

On the thirteenth of the same month, the President transmitted to Congress the memorial of Hamet Caramelli, the elder brother of the reigning Bashaw of Tripoli, in which he gives a history of Eaton's expedition to reinstate him in the power from which the present Bashaw had ejected him. Eaton entered into a treaty, or convention with the ex-Bashaw, by which he stipulated to endeavor to replace him on the throne. This engagement exceeded his powers, and never had the sanction of either the government of the United States, or of Commodore Barron, the chief in command of the American forces in the Mediterranean. When, subsequently, peace was made with the reigning Bashaw, and which the expedition of Eaton contributed to bring about, it was thought by Eaton that an abandonment of Hamet Caramelli was unworthy of the United States, if not a breach of faith. Mr. Jefferson considered that a mere co-operation against a common enemy was intended, and not an union of our object with the fortunes of the ex-Bashaw :

yet, as the latter was in want and distress, and money appeared to be the immediate object of his solicitation, the President recommended to Congress, in a spirit of liberality, to replace him in the situation in which he was before he made the engagement with Eaton.

The effect of this message was to induce Congress to make an appropriation in Hamet's favor, of two thousand four hundred dollars.

A proposition had been made, in the House, to vote a sword to Eaton; which was amended by substituting a gold medal for the sword. This was opposed by Messrs. Randolph and Clay, of Pennsylvania, as an honor disproportionate to Eaton's exploit; but the amendment was carried by fifty-eight votes to fifty-three. The subject was then recommitted to the same committee as before, but was not again acted on. The question was not decided by a party vote, and, to judge from the debate, if Eaton's friends had been content with the vote of a sword, it would have been carried by a large majority.

Among the minor annoyances of the administration, at this time, may be mentioned the course of Marquis Yrujo, the Spanish minister. In consequence of his indecorous and offensive publications in American papers, the administration had requested his recall; but his government having stated that he himself had desired to be recalled, expressed the wish that his leaving the country should be made to appear to be in consequence of his own application; to which request of the Spanish government the American government had assented. But on his coming to Washington during the discussion, in secret session, of the conduct of Spain, Mr. Madison wrote to M. Yrujo, and reminding him of the preceding facts, informed him that his presence at Washington was dissatisfactory to the President, and that he expected M. Yrujo would leave

the United States as soon as the inclement season had passed.

Trujo, in his reply to Mr. Madison, insisted that he had a right to reside in Washington as long as it suited his convenience, and the interests of the King, his master; and that, in his character as Envoy, he received no order except from his sovereign: to all of which he added a protest against the assumed invasion of his rights. No steps were taken by the government to enforce its authority. A bill, however, was introduced into the Senate to provide for similar cases, but it was not finally acted on.

The captures of American vessels by Spanish, French, and British cruisers, had now become so numerous, that the public patience was exhausted, and memorials were presented to Congress, in the early part of the session, from all the principal cities, setting forth these outrages, and calling loudly for protection. On the seventeenth of January, the President sent these memorials to Congress, and remarked that he had thought the right of a neutral to carry on trade with every part of the dominions of a belligerent (with the exception of blockaded ports, and in contraband of war) had been settled by the decisions of the Commissioners under the British treaty. When, therefore, it was found that the former principle was revived by that nation, remonstrance was made by the United States, which was followed by a partial suspension of the principle, without any disavowal of it. Our Minister had been instructed to make more urgent remonstrance; but, in the meanwhile, the practice continued unchanged. On the subject of the impressment of American seamen, the remonstrances have never been intermitted.

With the documents sent with the message is a letter

from Mr. Madison, as Secretary of State, to Mr. Monroe, in which the right of a belligerent to interdict to a neutral a trade in time of war, which is denied to him in time of peace, is thoroughly examined, and it is shown that it is of modern date; is repugnant to the interests of commercial nations; is maintained by no other nation than Great Britain; is inconsistent with the admitted right to trade with the parent state in war, though it was not enjoyed during peace. It is contrary to the practice of Great Britain herself; is inconsistent with the practice of the British government in opening their colonial trade even with the enemy by orders in council, and by the decision of the Commissioners of both governments, which reversed the condemnations in the British Vice-admiralty Courts, that were made on these principles.

The subjects of both illegal captures and the impressment of seamen, were referred to the Committee of the whole House, when<sup>1</sup> Mr. Gregg, of Pennsylvania, offered a resolution to suspend all further importation from any port of the British dominions, until equitable and satisfactory arrangements were made, both on the subject of captures and impressments.

This was the beginning of a series of legislative schemes to retaliate the aggressions of Great Britain, which for a long time constituted the most important subject of discussion in Congress, and in which John Randolph greatly distinguished himself in opposition.

On the fifth of February, Mr. Joseph Clay, of Pennsylvania, offered a series of resolutions, the purport of which was: That whenever American vessels were not permanently permitted to trade with the dominions of any foreign nation, the ships of such nation should be

<sup>1</sup> January 29th.

interdicted the like trade with the United States: That all merchandize which American vessels were prohibited from importing into any port of a foreign nation, should not be exported from the United States in the vessels of such nation: That such merchandize as American vessels were interdicted by foreign nations from exporting from any port of their dominions, should not be imported into the United States in the vessels of such nation: And lastly, to retort the policy of the British Navigation Act, that no foreign vessel should be permitted to import into the United States, any merchandize which was not the product of such nation, except it was expressly permitted by treaty, or in time of war.

Five days afterwards,<sup>1</sup> Mr. Nicholson, of Maryland, offered a resolution to prohibit certain specific articles of the growth or manufacture of Great Britain, comprehending all fabrics of leather, tin, brass, hemp, flax or silk, glass, fine cloths, silver and plated ware, hats, nails, paper, and some other articles; which plan he preferred to others, since it would not affect the revenue so seriously as Mr. Gregg's, nor be so burdensome to consumers as that offered in the Senate; and on the same day, Mr. Crowninshield, of Massachusetts, offered another, that no merchandize should be imported or exported to any European colonies in America, unless the importation in American vessels was at all times admitted into the said colonies, and unless the exportation of the said colonies was permanently permitted to American vessels to the United States; so that no commercial intercourse with any colony was to be permitted, unless American vessels had a share both in the import and export trade of such colony.

Two days later. Mr. Sloan, of New Jersey, offered a

February 10th.

resolution, by which, in case the British government did not, within a time prescribed, restore all American seamen impressed by her, and discharge all American vessels detained contrary to the law of nations, and make compensation for past detention and illegal condemnation, all intercourse between the United States and her dominions should cease. All of which resolutions were also referred to the Committee of the Whole.

There were no proceedings on the subject until the thirteenth of March, when motions were made to discharge the Committee from the consideration of Mr. Sloan's and Mr. Gregg's resolutions; but the motions were negatived by a majority of four to one. Of the twenty-six members who voted for them, no less than twelve were from Virginia, principally those most closely connected with Mr. Randolph in party views; but among the same minority, was Mr. Eppes, Mr. Jefferson's son-in-law. Nearly all the Federalists voted with the majority.

On the seventeenth of March, the House agreed to the policy recommended by Mr. Nicholson, of prohibiting specific articles of British growth or manufacture, by a vote of eighty-seven to thirty-five. The Federal party generally voted in the minority. The bill passed the House on the twenty-sixth of March, by ninety-three votes to thirty-two—the Federalists, with two or three of Randolph's friends, constituting the minority. It passed the Senate<sup>1</sup> by a vote of nineteen to nine. The prohibition was to take effect on the fifteenth of November.

The only preparations for defence were appropriations of one hundred and fifty thousand dollars for fortifying forts and harbours; and two hundred and fifty thousand

<sup>1</sup> April 19th.

dollars for building gun-boats; which were calculated to provoke the contempt of those whose lawless attacks made a defensive course necessary.

One of the measures of this Congress, served as a precedent for an interpretation of the constitutional powers of Congress, which was afterwards warmly contested, and which may be considered to have since received a contrary decision. This was the act for the construction of a national road from Cumberland, in the State of Maryland, to the State of Ohio. It passed on the twenty-fourth of March, by a vote of sixty-six to fifty. As it was earnestly opposed on the ground that Congress possessed no power to make roads, by way of obviating this objection, the consent of the States through which the proposed road would pass, (Maryland, Virginia, and Ohio,) was first required.

An elaborate report on the subject of roads and canals of a general and national character, had been recently made by Mr. Gallatin, as Secretary of the Treasury, with the sanction of Mr. Jefferson; but while fully sensible of the benefits of such improvements, and strongly bent on attaining them, he believed that this could not be effected without an amendment of the Constitution.

Though Congress was forbidden by the Constitution from putting an end to the importation of slaves before 1808, it was not considered that it was also restrained from laying a tax on their importation. Accordingly, a tax of ten dollars on each slave imported was laid. But numbers of the slaveholding States, while they generally wished the further increase of this class to be limited, especially by importation, exhibited great <sup>un</sup>willingness to see Congress legislate on a subject in which, while one-half had the deepest interest, the other had no interest at all. After several attempts to reject or

postpone the bill, which failed by large majorities, it was finally re-committed; and though afterwards reported with amendments, it was, in consequence of its being so unpalatable to the representatives of a large section of the Union, never afterwards acted on.

Some of the members questioned the constitutionality of the tax before 1808. This doubt was not confined to the members from the slaveholding States.

The territorial legislature of Indiana, in a petition to Congress, had, among other requests, again asked Congress to sanction the introduction of slaves into that territory. This part of the petition was not finally acted on.

The proposed amendment of the Constitution, by which any Federal judge might be removed by the President, on the joint application of the two Houses of Congress, was again brought forward at this session, and after the disagreement to the proposition in Committee of the Whole, the motion to postpone it indefinitely was rejected by a large majority. The final decision being rendered uncertain by these conflicting votes, it seemed as if many of both the friends and foes of the measure were afraid to pass it, and the subject was suffered to rest undecided.

In February, the President communicated to Congress the progress of the expedition across the Continent under Lewis and Clarke. It appeared that on the first of November, 1804, they had reached the Mandan villages, 1609 miles above the mouth of the Missouri.

In the latter part of this year, an adventurer from Spanish America, Miranda, planned an expedition against Caraccas, with a view of exciting a revolution in that country, and separating it from Spain. As such expeditions were prohibited by an act of Congress, measures were taken by the Administration to arrest it,

and some of the leading American citizens engaged in it were prosecuted in the Federal Courts.

The session ended on the twenty-first of April; and during its continuance, party divisions had undergone more than one change. At first a secession in the Administration or Republican party had reduced the majority by some eighteen or twenty members. These consisted of Mr. Randolph, and a number of his personal friends, most of whom were his colleagues; but, after a while, the seceders had dwindled down to some four or five. These undertook the delicate and difficult task of withdrawing from one party without uniting themselves with the other—professing to retain the political principles of the Republicans, while they gave their votes to the Federalists. They managed to maintain this neutral and isolated ground for a while, but finally they became, to all eyes but their own, amalgamated with the Federalists.

Mr. Jefferson being furnished with the two millions asked for to enable him to purchase the Floridas, he appointed Mr. Bowdoin, of Massachusetts, and General Armstrong, of New York, Ministers to France.

After the purchase of Louisiana, Mr. Monroe had been sent to England, where he was associated with Mr. Pinkney, of Maryland, in endeavoring to make a treaty, by which the practice of impressment would be abandoned, and such innovations in international law as interfered with the legitimate commerce of neutrals would be given up. As Mr. Fox had been lately called to the British Ministry, Mr. Jefferson had entertained lively hopes that, from the known liberality of that statesman, an equitable treaty would be made. Fox, however, soon followed his great rival, Pitt, to the tomb, and the American Ministers experienced the same diffi-

culties in the negotiation as Mr. Jay had met with ten years before.

In the meanwhile, the public mind in America was kept in a state of feverish excitement by the lawless acts of power exercised by the British ships-of-war on the American coast, and by their unceasing impressments of American citizens, both naturalized and native. At length one case occurred, of so aggravated a character, that it seemed as if that nation was determined to provoke a war, or at least to try how much the patience of the American people could endure.

A small coasting vessel, when about entering Sandy Hook, and when, of course, within the jurisdiction of the United States, was fired into by the British ship Leander, by which John Pierce, her commander, was killed.

The President forthwith<sup>1</sup> issued a proclamation, forbidding the entrance of the Leander, and two other vessels in company with her, into the waters of the United States — at the same time calling upon all officers, civil and military, to apprehend Henry Whitby, the captain of the Leander, and cautioning all citizens against giving aid to those ships, under the penalties of the law.

Notwithstanding this outrage, and the indignant sense of it manifested by the Administration, it still continued very desirous of a pacific arrangement with Great Britain, as appears by its despatches to Mr. Monroe. Mr. Jefferson, in noticing the affair of the Leander to Mr. Monroe, says: “The late unparalleled outrage on us at New York excited such sentiments in the public at large, as did not permit us to do less than has been done. It ought not to be viewed by the Ministry as looking towards them at all, but merely as the consequences of

<sup>1</sup> May 3d, 1806.

the measures of their predecessors, which their nation has called on them to correct."

"No two countries upon earth have so many points of common interest and friendship; and their rulers must be great bunglers, indeed, if, with such dispositions, they can break them asunder. The only rivalry that can arise is on the ocean." After speaking of the capacity of the United States to be powerful on the sea, and of the consequences of her uniting with either England or France, he adds : "We wish for neither of these scenes; we ask for peace and justice from all nations, and we will remain uprightly neutral in fact, though leaning to the belief that an English ascendancy on the ocean is safer for us than that of France." This was written at the time his political enemies represented, and no doubt many of them believed that he was the blind and willing instrument of French ambition.

After Congress had appropriated the two millions for the purchase of Florida, the Hornet sloop-of-war was despatched to communicate the fact to the American Ministers at Paris, that they might, by having the means of immediate payment by drafts on Holland, be able to negotiate to more advantage. The sailing of this vessel, known to be relative to the pending negotiation, gave rise to the rumor that the money was obtained for the purpose of bribing France to drive Spain to a cession of Florida, and that the Hornet actually carried out the money. The calumny thus begun was subsequently so improved by the Federal prints as to assert that these two millions were actually paid to Bonaparte without any return whatever, since the American Minister did not succeed in effecting the cession. This unfounded statement obtained credit with the readers to whom it was

principally addressed, until it was subsequently formally brought to the notice of Congress, and refuted.

While the Administration found such serious causes of annoyance and perplexity in its relations with France, Spain, and Great Britain, it now experienced a new source of care and anxiety at home.

Aaron Burr, who, we have seen, after having lost the confidence of his party, had sought, by the aid of his new allies, the Federalists, to become Governor of New York, but having failed also in that, and finding all chance of preferment in his native State rendered hopeless after the result of his duel with Hamilton, urged on by his restless and ambitious temper looked about for some other scheme of self-aggrandisement; and he soon formed projects which would have seemed desperate to any other man less sanguine, fearless, and adventurous than himself. As he appeared to have counselled with no friend in his schemes, it is only by inferences and circumstantial evidence that we can obtain a glimpse of his purposes. According to the testimony thus afforded, his first plan was to gratify both his ambition and revenge at the same time, by endeavoring to effect a separation of the Western from the Atlantic States. If that should prove impracticable, he then was to put himself at the head of such hardy adventurers as he could attract to his standard, and invade Mexico, for the purposes of revolution or conquest, according to circumstances.

He set out for the West soon after the close of the session of Congress, and he succeeded, for the time, in obtaining friends and adherents by making the impression that his views on Mexico, to which he soon confined himself, had the secret favor and support of the government.

The Administration having learned the fact of his

intriguing with men of influence in the West, sent off a confidential agent to obtain early and authentic information of the precise character and progress of his schemes, and to undeceive the leading men of that country as to the purposes of the government. Information being thus obtained that Burr's project was to plunder the bank of New Orleans, and then invade Mexico, the President issued a proclamation on the seventeenth of November, cautioning all citizens against joining in the lawless undertaking, and orders were given at different points on the Ohio and Mississippi to seize on the boats and stores there provided for the enterprize, and to arrest the persons engaged.

When Congress assembled, a fortnight later, the President, in his opening message, informed them that he had reason to hope that the negotiation with Great Britain would be brought to an issue during the session. The result of that with Spain was altogether uncertain. She had advanced on the west of the Mississippi, and taken post on the Red River, within the limits of Louisiana. Her troops had since withdrawn to the west of the Sabine. He had previously called upon the Governors of the Louisiana and Mississippi Territories for five hundred volunteer cavalry, which requisition had been promptly complied with. The inhabitants of those Territories had readily tendered their services in defence of their country.

Having received information that a military expedition had been organized against the Territories of Spain, he had, by proclamation and special orders, taken measures for preventing and suppressing the enterprize. The augmentation of the regular force would depend upon the result of our negotiations with Spain. He then recom-

mends fortifications to guard the approaches to New Orleans.

The gunboats authorised at the preceding session would be ready in the ensuing spring. As a larger number would be required, a similar appropriation for the like number was recommended. A further appropriation for fortifications was also recommended.

He suggests that while the criminal attempts of private individuals against foreign nations might now be prevented, it would be right to give similar powers where the enterprize is against the United States.

The country was then at peace with all the Barbary powers, but he proposed to send a reinforcement to the Mediterranean, as the likeliest means of preserving peace. The relations with the Indians are represented to be all amicable. The expeditions under Lewis and Clarke, Freeman and Pike, are also briefly noticed.

He congratulates Congress on the approach of the period when they might constitutionally put an end to the African slave-trade. Although that trade could not be prevented before 1808, yet they might, by timely notice, discourage adventures which could not be prevented before that time.

The receipts into the treasury for the year had reached near fifteen millions of dollars, with which two millions seven hundred thousand dollars of the purchase-money of Louisiana had been paid, and seven millions of dollars of the public debt, principal and interest. He recommends the removal of the tax on salt, and a temporary continuation of the Mediterranean duty, which had been laid on articles brought from the ports on that sea to defray the tribute to Algiers, and other expenses incurred on account of its commerce.

He suggests that there will soon be an accumulation

of money in the Treasnry beyond the instalments of the debt, which we are permitted to pay; and he asks to what purpose shall these surpluses be applied? Shall we suppress the impost, and give that advantage to foreign over domestic manufactures? the great mass of the articles on which the impost is paid, are luxuries purchased only by the rich. He suggests that the money may be expended for the great purposes of public education, roads, rivers, canals, and other improvements, as it may be thought proper to add to the constitutional powers of Congress. Of these objects, that of a national establishment for education is particularly recommended, because Congress had it then in their power to endow it with the lands which would soonest produce the necessary income.

Adverting to the uncertain and ever-changing condition of Europe, he suggests that Congress should prepare, at "a steady, perhaps quickened pace, for the defence of our seaport towns and waters, an early settlement of the most exposed and vulnerable parts of our country, and a militia so organized that its effective portions can be called to any point in the Union, or volunteers instead of them.

The next day the President informed the House that the negotiation with Great Britain, since the delay occasioned by the death of the Minister, Mr. Fox, was proceeding in a spirit of accommodation. He mentioned a suggestion from the American Ministers, Monroe and Pinkney, that a temporary suspension of the non-importation act would, "as a mark of a candid disposition on our part," and of confidence in the temper and views with which they have been met, have a happy effect on the course of the negotiation. He therefore recommends the suspension of the act for a reasonable time, to apply

to the few cases on which it had operated as well as the future.

The message was immediately referred to a select committee of five, of whom Mr. Randolph was chairman, and the next day a bill was introduced for that purpose, and was passed two days subsequently, with only five dissentients.

On the motion to suspend the act until the thirty-first of December, the votes were forty-five ayes—the Opposition—to sixty-seven noes—but it finally prevailed by a vote of ninety-seven to twelve. If the Opposition, in first voting for so ineffectual a measure as a postponement to the end of the month, manifested a wish to frustrate the conciliatory policy of the President, the greater part of them showed, by their second vote, that they thought it either inconsistent with patriotism or with party policy to adhere to their first course. The bill was subsequently amended in the Senate, and thus passed, so as to authorise the President to suspend it until the second Monday in the succeeding December.

At this time, the liveliest anxiety was felt by the public about the projects of Aaron Burr in the West, though their precise character was as yet shrouded in mystery, and fears were entertained that, with his admitted talents for intrigue and his unprincipled ambition, he might succeed—if not in detaching the Western States from the Union, in alienating their affections, and producing a mischievous and threatening schism among the people.

In this state of uncertainty and solicitude, on the sixteenth of January Mr. Randolph offered a resolution which called on the President to communicate to Congress such information as he possessed “of any illegal combination against the peace and safety of the Union,

or of any military expedition against the territories of a power in amity with the United States, together with the measures taken by the Executive for suppressing the same."

A few days subsequently the President responded, and after giving the history of Burr's project to the beginning of the session (which has been already stated), he proceeded to inform the House that, before the orders of the General Government to arrest the expedition had reached the Western country, the Governor and Legislature of Ohio, in consequence of the information received from the confidential agent of the government (Mr. Graham), had promptly effected the seizure of the boats and stores within their reach: that, in Kentucky, a premature attempt to prosecute Burr having failed, a popular impression of his innocence had been produced, by which he had been able to hasten his equipments; but that the arrival of Mr. Graham, the agent of the government, together with the proclamation and orders of the Executive, had produced the same loyal effects in that State as they had done in Ohio: that some boats, containing from one hundred to three hundred persons, had passed the Falls of Ohio, to rendezvous at the mouth of the Cumberland with others expected down that river: that, on the tenth of December, orders had been despatched to the authorities of Tennessee; and on the twenty-third, the agent (Graham) had left Frankfort for that State: that, by information received the day before,<sup>1</sup> Burr had descended the Cumberland on the twenty-second of December with two boats, but without any quota of men from Tennessee; but whether the orders for his arrest would be in time was uncertain: yet, on the whole, the fugitives from Ohio, with their associates

<sup>1</sup> January 25th.

from Cumberland, could not seriously threaten New Orleans, as ample preparations had been there made for resistance by General Wilkinson, who had also the zealous support of the inhabitants. He adds that the rumors of aid to the enterprize from foreign powers was unfounded, and “to be imputed solely to the vauntings of their author, to multiply his partisans by magnifying the extent of his prospects and support.”

In conclusion, he informs the House that despatches from General Wilkinson, received on the eighteenth instant, state that he had apprehended three emissaries of Burr, one of whom had been liberated by *habeas corpus*, and two others, employed to corrupt Wilkinson and his army, had been sent on for trial to one of the Atlantic States. As soon as they arrived they would be placed in the custody of the law; and he suggests that as Washington would be, on many accounts, the most proper place for their trial, their first regular arrest should take place there.

The next day the expediency of suspending the *habeas corpus* having been referred to a committee of three members of the Senate, consisting of Mr. Giles of Virginia, Mr. Adams of Massachusetts, and S. Smith of Maryland, a bill was soon afterwards reported by Mr. Giles, suspending the writ for three months; and the rule which requires three readings of a bill having been unanimously dispensed with, the bill was passed on the same day, and communicated to the House of Representatives in a secret message, with a request for its speedy concurrence.

It is not known whether this measure was dictated by a sincere belief that the public interest required such a large addition to be made to the Executive power, or whether it was not merely meant to increase the public

alarm, and thus enhance the merit of the Executive in suppressing the dangerous conspiracy. If so, it met with the fate that often, and justly, attends measures which arise from one motive, and claim to arise from another.

When the message from the Senate was received by the House,<sup>1</sup> Mr. Thompson, of Virginia, one of the Republican minority, offered a resolution to make the proceedings public, notwithstanding the Senate's recommendation of secrecy, and it was carried with only three dissentients. After a brief, but lively debate, the bill was rejected by one hundred and sixty-three to nineteen; and thus a measure which had passed the Senate unanimously was, three days later, rejected by the other House by a majority of nearly six-sevenths; and this, too, when the political sentiments of the majorities of both Houses were the same.

In the three days which intervened between the passage of the act in the Senate and its rejection by the House, there was time for the latter to see the subject in its just light, and to be satisfied that the occasion was not one which justified giving to the Executive the power of arbitrary imprisonment. There were, besides, other circumstances, which, operating on the feelings of the members, changed their sentiments.

Dr. Bolman and Mr. Swartwout, of New York, arrived on the twenty-second instant, in close custody, as state criminals; and their arrest being considered, under the circumstances, as a high-handed measure of the government, excited as much indignation against the Administration with some, as their imputed crimes excited against themselves with others; and lastly, authentic intelligence having been received that Burr had passed Fort Massac

<sup>1</sup> January 26th.

on the thirty-first of December with only ten boats, each containing but six men, without any appearance of military array, it seemed preposterous to suspend the *habeas corpus* for so contemptible an armament.

The whole was an instructive lesson on hasty legislation, and a forcible illustration of the benefits of two Houses of Legislature. Bolman and Swartwout obtained a writ of *habeas corpus*, after a full discussion before the Supreme Court, and were finally discharged.

Burr, finding all his schemes foiled after it was once known that he had not the sanction of the government, landed on the banks of the Mississippi, in the Territory of that name, and proceeded to the Tombigby, attended by a single companion. He here tried to conceal himself, but was arrested in February, and carried to Richmond for trial in the Federal Circuit Court—his expedition having been planned and begun in one of the islands<sup>1</sup> in the Ohio, which Virginia, in her cession of the North-west Territory, had retained to herself.

The House of Representatives refused to appropriate the sum required by the President for the construction and equipment of gunboats, but they at the same time, by resolution, called on him for such information as he possessed to show their efficacy in protecting harbors, and also the number wanted for the several sea-ports. On the tenth of February he sent them a communication on the subject.

His plan of defence proposed to combine, first, land batteries, furnished with heavy cannon; second, movable artillery; third, floating batteries; fourth, gunboats to

<sup>1</sup> Blennerhasset's, after the name of the emigrant from Ireland, who made it his residence, and improved it at great expense, and with much taste. He suffered in fortune and character by listening to the seductive schemes of Burr.

oppose an enemy at his entrance, and to co-operate with the batteries. He refers to the testimony of professional men to show that gunboats are in general use in all maritime nations. He thinks that two hundred would be necessary for the protection of the principal ports; which number he proposes thus to distribute: to the Mississippi, forty; to Charleston, Savannah and the neighboring ports, twenty-five; to the Chesapeake, twenty-five; to Delaware Bay and River, fifteen; to New York, the Sound, and waters as far as Cape Cod, fifty; to Boston and the waters north of Cape Cod, fifty. A part of these would be of the largest size, and capable of navigating any seas: seventy-three were already built, or building—the remaining one hundred and twenty-seven would cost from five to six hundred thousand dollars.

He remarks that this species of armament is intended merely for defensive operations, and can have but little effect in protecting our commerce in the open sea, even on our own coast. The House voted only one hundred and fifty thousand dollars for building thirty gunboats, by a majority of sixty-eight votes to thirty-six, thus conclusively showing their want of confidence in the efficacy of gunboats even for harbor defence.

By an act of this session, the African slave-trade was prohibited after the first of January, 1808. The tax on salt was repealed, and the Mediterranean fund continued—all of which showed that the President still had the confidence and support of majorities in both Houses, notwithstanding the defection of a part of his former friends.

On the nineteenth of February he communicated to both Houses that our Ministers in London had agreed on the terms of a treaty on all the points which had been

the object of negotiation : that our Ministers at Paris had been assured by the French Minister of Marine that a late imperial decree, declaring the British Islands in a state of blockade, was not to affect American commerce : and that Aaron Burr had surrendered himself to the civil authority of the Mississippi Territory.

These prospects of an adjustment of our difficulties with France and England both proved fallacious.

Those with England were found to be far greater than he had expected. Her pretensions, however unwarranted they appeared to him to be by the law of nations, and on the principles of abstract justice, seemed to her essential to her naval ascendency ; and upon that ascendency she thought was staked her very existence as an independent nation.

These pretensions were, that a neutral could not claim the right of carrying on, in time of war, a trade with a belligerent which that belligerent refused in time of peace : also a latitudinarian right of declaring the ports of her enemies in a state of blockade, and the right of impressing for her navy her native subjects, wherever she might meet with them : all of which pretensions were resisted by the United States, as repugnant to the received code of international law.

The ground on which these principles were severally maintained by Great Britain, and assailed by the United States, may here be noticed, as they constituted the chief ground of dispute between the two nations for six years, and then ended in war.

First. As to the doctrine that a neutral nation has not the right to carry on, in time of war, a trade with a belligerent which she has not in time of peace.

This rule appears to have been first adopted in the war between England and France, in 1756, and hence

it has been termed the rule of '56 — because, they say, the case which demanded its application then first occurred.

They say that a belligerent has the indubitable right to possess himself of any part of the domain of his enemy; and that if he has superiority at sea, he has the means of carrying such right into effect as to places dependent on foreign supplies, whenever such places cannot be supplied and defended. "If the belligerent chooses to apply his means to such an object, what right has a third party, perfectly neutral, to step in and prevent the execution." "He can have no right to apply to his own use the beneficial consequences of the mere act of the belligerent, and to say: True it is you have, by force of arms, driven such places out of the exclusive possession of the enemy, but I will share the benefits of the conquest, and by thus sharing its benefits, retard its progress."<sup>1</sup>

The United States insisted<sup>2</sup> that the rule of 1756 deprived neutrals of a perfect right which they had before the war, which was to carry on such trade with any of the dominions of a belligerent, which such belligerent would *consent to*. The belligerent had a perfect right to grant or withhold this trade, and if he chose to concede it, that concession gave to the neutral a right which the enemy of such belligerent could not impair. Admit this concession to be the consequence of the power of the belligerent, that does not take away the neutral's right, for if it did, then the neutral would be interdicted from all trade whatever — such trade natu-

<sup>1</sup> War in Disguise, page 23, in which the judgment of Sir William Scott is quoted, November, 1799.

<sup>2</sup> See "Examination of the British Doctrine," an anonymous answer to "War in Disguise." Mr. Madison was known to be its author.

rally arising and increasing in time of war. The rights on which it is founded were prior to the war, and independent of it.

They further showed that, in 1756, the principle now contended for was not insisted on. But that the condemnations were made on this ground: France did not open her colonial ports to neutrals, but granted special licenses, and the British prize courts decided that vessels using such licenses must be considered as French vessels; and on that ground they were condemned.

That when this practice of licenses was found not to answer their intended purpose, they were revoked; but the prize courts still condemned Dutch neutrals as before, on the ground<sup>1</sup> that France having interdicted this trade to all foreigners, the vessels carrying it on must be presumed to be French, and therefore were condemned as lawful prize.

That in the war in 1744, the British did not act upon this rule, though the circumstances were the same.

These and other arguments were set forth in a remonstrance from Mr. Monroe, as Minister from the United States, to Lord Hawkesbury, on the twenty-eighth of September, 1805,<sup>2</sup> and the same questions were discussed with a good deal of ability in some of the memorials from the cities to Congress, especially in that from Baltimore.<sup>3</sup>

Second. The arguments by which constructive blockades were defended were, that they had been used by France, and acquiesced in by neutrals: to which the neutrals replied by denying the fact of their acquiescence, and by insisting that though they had submitted to an injustice which they had not the power to resist, that

<sup>1</sup> IV. Wait's State Papers, page 345.

<sup>2</sup> Ibid. page 297.

<sup>3</sup> Ascribed to Mr. William Pinkney.

circumstance afforded no justification for an admitted wrong. That no nation has a right to require more of another nation than that the dealings of such nation shall be just and fair to itself; and if the injustice of one belligerent would warrant the injustice of another, then the favor or benefit rendered by one nation would justify the nation receiving it in demanding a like favor from the other, which has never been pretended. This subject was more fully discussed at a subsequent period.

As to impressments, the British government maintained that no one was competent to throw off the allegiance he owed to the country in which he was born; and that a belligerent had, in time of war, the right of search of all vessels, and if, in the exercise of this right, they met with any of their native subjects, they had a right to impress them into their service.

This subject was very fully and elaborately discussed by Mr. Madison, in his despatches to Mr. Monroe, in January, 1804.<sup>1</sup> The right of the neutral to navigate the ocean being admitted, with the immunity thence arising, the exceptions must be shown to it by those who insist on a conflicting right; but no exceptions can be recognized by the law of nations except in cases of contraband and of blockaded ports. Nor does the sovereignty of a nation extend beyond its own dominions. Did the right in question exist at all, it would exist in time of peace as well as of war, which has never been contended.

If reason and justice be consulted, the practice is particularly indefensible. In case of property, the question of right must be examined by a competent tribunal; but in the case of impressment, the right is decided by the fact of seizure. The claim is the more unwarranted,

<sup>1</sup> As also in his "Examination" of the British doctrine.

because it requires that the American who wishes to profit by his citizenship, should prove it, instead of the proof that a man is a British subject being required of those who claim him. The neutral flag must be regarded as evidence of citizenship. The claim is inconsistent with the practice of Great Britain herself, who refuses to discharge native American citizens from her service, when they have voluntarily entered it; and though she denies the right of America to naturalize her subjects, she refuses to release from her service such Americans as have settled or married in her dominions. Marriage, and residence, and naturalization are good pleas when in her favor, but avail nothing when against her. The cases adduced show the great extent of the injury. The respect to her flag claimed by Great Britain is also examined and denied.

It appeared that of about two thousand seamen impressed, more than one-half (eleven hundred and forty-two) were discharged as not being British subjects, one hundred and two were detained as British subjects, and eight hundred and five were detained for further proof. Thus, for all the British seamen gained, more than an equal number, who were not such, were sufferers; and it is probable that for every one gained, from ten to twenty times as many were the victims.

It was found, from the despatches of Messrs. Monroe and Pinkney, that they were not likely to be successful in their negotiation, either as to the indemnity for illegal captures, the West India trade, or the impressment on American seamen, and they were instructed to make no treaty in which the last was not provided for. These instructions did not, however, arrive until the treaty was signed.

That treaty fell so far short of the President's expect-

ations, that he decided at once not to submit it to the Senate, which was still in session, but to try the effect of further negotiation. In addition to the objections to the particular provisions of the treaty, there were two which were insuperable. One was, that there was no provision on the subject of impressment; and the other was, that the treaty was accompanied with a note from the British Ministers, by which their government reserved to itself the right of releasing itself from the stipulations in favor of neutral rights, if the United States submitted to the Berlin decree, or other invasion of those rights by France.

The treaty contained twenty-six articles. It confirmed those clauses which were permanent and unexpired in the treaty of 1794. On the subjects of the East India trade, the rights of neutrals and belligerents, appointment of consuls, surrender of criminals, equalization of duties, and regulations of privateers, the two treaties were substantially the same. The new features in the last treaty were that Great Britain consented that the United States should have a circuitous trade with the colonies of her enemies during the existing hostilities. The limit of maritime jurisdiction was extended to five miles from the coast. Provision was made in favor of those who might be shipwrecked: advantages in trade granted by either party to any nation were extended to the other party. All laws passed and measures taken against the African slave-trade by one nation to be communicated to the other.

In the following particulars this treaty was more favorable to the United States than the treaty of 1794. It added tar and pitch to the exceptions from contraband. It extended to the United States the right of one party to countervail the tonnage duties of the other;

and in place of the former reservation to Great Britain of the right to countervail the discriminating duties laid in the United States, it stipulated for an equality of duties, of drawbacks, and bounties on merchandize, whether in British or American vessels.

It was less advantageous than the treaty of 1794 in limiting the trade to the British settlements in India to *direct* voyages, outward as well as homeward; and in providing no indemnity for illegal captures.

The article by which Great Britain agreed to a trade by the United States with her enemies' colonies for a time, and within certain restrictions, might be regarded by either party as a concession previously refused, according to their views of the rights of belligerents and neutrals respectively. In conformity with the doctrine then asserted by the British government and her prize courts, this qualified permission of a trade to neutrals in war which they did not enjoy in time of peace, was a concession which Great Britain could have rightfully withheld. But according to the principles always maintained by the United States, neutrals had an unquestionable right to a direct trade with any part of the dominions of a belligerent which such belligerent permitted, both in war and peace (saving in contraband articles and in case of blockades), and consequently to confine this trade between the belligerent and her colonies to the case of first importing the colonial merchandize into the United States, and then to be permitted to export it to the parent country, after the continuity of the voyage was broken, was, on the part of Great Britain, rather a restriction than a concession, and therefore a surrender of their previous claims by the United States. Besides, this indirect colonial trade was permitted only *during the existing hostilities*, so that if peace was made the

next year, the United States could pass no non-intercourse or non-importation law for ten years.

Of the like neutral or ambiguous character was the omission of the article in Mr. Jay's treaty concerning provisions; for though the United States had then agreed that they might be stopped as contraband, Great Britain agreed to waive the forfeiture, and to indemnify the neutral for stopping them. Under the present treaty each was left in possession of its respective claims. On the whole, therefore, it cannot be regarded better, as a treaty of commerce and navigation, than that negotiated by Mr. Jay; and Mr. Jefferson could not, without a surrender of the equal rights of his country, or of his own claims to consistency, have given it his sanction, even if it had been free from the two objections which appeared to be insuperable.

His course was, as might be expected, loudly condemned by the Federal prints and the Opposition generally. They regarded all prospect of further negotiation as hopeless, and a war with Great Britain as the too probable consequence of what they called his arrogant course in regard to the treaty. It is likely that their denunciations of the course taken by the government had its influence with the British people and Ministry, and contributed to fulfil the prophecy of the Federalists.

Soon after the signing of the treaty, but before the American Ministers were informed of Mr. Jefferson's course respecting it, Mr. Canning was appointed Secretary for Foreign Affairs in England, in the place of Mr. Fox; and it soon appeared that there was no probability of a successful negotiation with him.

In May, Mr. Madison gave the American Ministers precise instructions as to the President's views in negotiating a new treaty.

First. Without a provision against impressments, in conformity with previous instructions, no treaty was to be concluded.

Second. The eleventh article, on the subject of colonial trade, could not be admitted, unless freed from the conditions which restricted to the market of Europe the re-exportation of colonial produce, and to European merchandize and articles the supplies to the colonial market.

Third. The change made by the third article in the provisions of the treaty of 1794, relative to the trade with the British settlements in India, by limiting the privilege to a direct trade *from the United States*, as well as to them, was deemed an insuperable objection.

Fourth. Either an express provision of indemnification for wrongful captures was to be inserted, or at least a saving, in some form or other, of their rights against any implied abandonment.

Fifth. Articles eighteenth and nineteenth to be so altered as to leave the United States free, as a neutral nation, to keep and place other belligerents on an equality with Great Britain.

Sixth. No such alternative as was presented by the declaratory note on the subject of the French decree of the twenty-first of November, 1806 (the Berlin decree), would be admissible.

He descants at large on each of the proposed articles, and then examines the less important parts of the treaty. He found, however, as we shall soon see, that his vindication of his country's rights proved on this, as on former similar occasions, a fruitless labor — reason and justice availing little in national controversies, when not adequately supported by power.

Congress adjourned at the end of its constitutional term.

The following legislative provisions were suggested at this session by the state of the foreign relations of the country, which had even then assumed a threatening aspect.

The President was authorised to accept the services of volunteer companies to the extent of thirty thousand men, who were to be clothed and furnished with horses at their own expense; to be equipped at the expense of the United States; and to continue in service twelve months after their arrival at the place of rendezvous. The opinion then adopted that this was the most efficient and reliable species of military force for the United States has been since amply confirmed.

The President might also employ for the navy, if required, five hundred additional seamen and boys.

The sum of one hundred and fifty thousand dollars was appropriated for fortifying the ports and harbors of the United States.

To the preceding acts may be added a bill repealing the duty on salt, as the greater part of this necessary of life consumed in the United States was then imported from foreign countries, and it was deemed prudent to provide an adequate supply by encouraging its importation, in case the country should be involved in war.

Such were all the precautionary and defensive preparations which were consistent with the pacific and economical policy of the Administration.

The legislative measures of a general character were as follows:

An act looking to the redemption of the whole of the public debt, which authorised the holders of the deferred stock and of the three per cents to subscribe those stocks at the rate of sixty-five per cent., in exchange for six per cent. stock.

An act for surveying the coasts of the United States. Fifty thousand dollars were appropriated for beginning this national work, which reflects such credit on the Federal Government by the munificent support it has received, the ability with which it has been executed, and the benefits it has conferred on commerce and navigation.

An act to prohibit the importation of any negro or mulatto after the first of January, 1808, under heavy penalties of fine and imprisonment.

An act to compensate Captains Meriwether Lewis and William Clarke, and their associates in the exploring expedition to the Pacific. Sixteen hundred acres of the lands were given to Lewis and to Clarke, and three hundred and twenty acres of land to each of their thirty-one companions.

At this session appeared, for the first time, in Congress, Henry Clay, one of those self-educated men by whom our annals are occasionally illumined and adorned. He at once established a reputation as a public speaker and statesman, which he sustained and increased through life. It may be remarked, of this class of men, that their unquestionable talents, energies, and public services, induce careless and superficial minds, by mistaking a few dazzling exceptions for the general rule, to undervalue the intellectual discipline of scholarship and academical instruction.

## CHAPTER XIV.

### JEFFERSON'S ADMINISTRATION.

S E C O N D   T E R M.

1807—1809.

THE cares of the Administration were, at this time, divided between the foreign relations of the government and the reckless projects of Aaron Burr.

In January, Burr landed on the Mississippi Territory, and in a letter addressed to Cowles Mead, then exercising the executive functions of the Territory, in the absence of the Governor, he denied all illegal purposes whatever, and surrendered himself to the civil authority. He was accordingly recognized to appear in a court having criminal jurisdiction, and having appeared, he so impressed the grand jury and others with his innocence, that he escaped prosecution; whereupon he moved to be discharged, but the court not granting his application, he made his escape, and was proceeding, with a single companion, to Florida, when he was arrested by Lieutenant Gaines and four men stationed at Fort Stoddart. He was by them carried on to Virginia, to which place he had been ordered by the Executive as soon as his arrest was known—for, as he had arrayed his forces on Blennerhasset's Island, which was within the limits of that State, his offence had been there committed, and there alone he could be tried. He reached Richmond on the twentieth of March, was there arrested on the charge

of preparing an expedition against the Territories of Spain, and admitted to bail in the sum of ten thousand dollars. The trial excited unusual interest. The high station which Burr had lately filled, his reputation for talents, the daring character of his enterprize, the mystery in which its precise character was still involved—all contributed to increase the public curiosity and interest; and party spirit, which finds materials for public agitation in every thing, seized upon this occurrence for the purpose either of assailing or of exalting the Administration. It was known and believed that Mr. Jefferson took a great interest in Burr's condemnation, and this was enough to make his acquittal desired by the Federalists. In their eagerness to thwart the successful leader of their opponents, and to fasten on him the imputation of straining the law for the purpose of punishing and degrading a hated rival, they forgot Burr's offence of having deprived the party of the services of Hamilton, and his cause was now as warmly espoused as if he had always been a cherished member of that party. The Republicans, on the other hand, were desirous both of supporting Jefferson, and of seeing an apostate to their principles brought to the punishment they believed him to deserve. The mass of the nation who were not politicians, on this question inclined to the side of the Republicans against him who, as they believed, would have severed the Union, if his wishes and projects had been seconded by his means.

The zeal manifested by the Federalists in behalf of Burr, by a natural reaction, increased that of Mr. Jefferson to see him convicted; and during the trial he kept up a close correspondence with Mr. Hay, the District Attorney, whose duty it was to prosecute Burr. In his anxiety to see the laws vindicated, and to prevent a

great offender from effecting his escape by the influence of his talents, and by means of party zeal, which forgot every public duty in the single desire of thwarting himself, he overlooked what was due to his own dignity, in making himself a party to the prosecution; and his course was the more reprehensible, as, after having taken an active part in effecting Burr's conviction, he could not be in that candid and dispassionate state of mind which was so essential to the proper exercise of the power of pardoning confided to him by the Constitution.

This indecorum was not, however, publicly known; and while the Federalists were generally disposed to regard Burr as the victim of a relentless prosecution on the part of the government, Chief Justice Marshall, whose character for stainless purity was so high, did not escape with the opposite party. He was assailed in the newspapers, with some acrimony, for dining with Burr at the house of one of his advocates in Richmond. The fact was undoubted, and it certainly seemed to be a manifest impropriety for a judge to be seen at the same table with a man on whose trial for treason he was about to sit; and without doubt it afforded matter of regret to the Judge himself, who, without being at all puritanical, had been always a scrupulous observer of the decencies of life. But there was much to extenuate, if not entirely to excuse the indecorum. At the time he accepted Mr. Wickham's invitation to dinner, he did not know that Burr was to be one of the guests; and when, subsequently, Mr. Wickham thought it right to correct his former omission, and inform Judge Marshall of the fact, it appeared to him that having previously accepted, the occasion hardly required that he should then refuse, and thus seem to cast censure on his friend Mr. Wickham. He accordingly went, but had no intercourse whatever

with Burr, sat at the opposite end of a long table, and withdrew from the company immediately after dinner.<sup>1</sup>

As Burr was defended by numerous and able counsel, the Administration employed additional counsel to aid the public prosecutor.

Burr thought proper to summon the President himself as one of his witnesses, and the court having decided that it was competent in him to do so, the President justified himself for not complying, on the ground that the Constitution having imposed on him a particular set of duties, of a permanent character, it superseded the general law which subjected him to the minor duty of giving oral testimony. He considered it analogous to the case of a judge summoned from the bench by a sheriff to assist in suppressing a riot, in which case the greater duty would prevail over the less; and that it would conflict with the independence which should exist among the co-ordinate branches of the government, if the Executive were subject to the *commands* of the judiciary, and to imprisonment for disobedience. The papers called for having been sent, the question of the personal attendance of the President was not decided. The Legislature ought to remove all doubts on this subject, and follow the usual course of prudence and wisdom in compromising between conflicting principles, by allowing the written deposition of a President whenever his testimony should be required.

The grand jury found Burr and some of his associates guilty of treason. He was then committed to prison, which, on account of the state of his health, was permitted to be a room in a public hotel, placed under guard. This indulgence furnished a new theme of

<sup>1</sup> What passed on that day is stated from my own personal knowledge, and the facts preceding from the direct information of Mr. Wickham.

reproach against the court. He was put on his trial in August, and on the last day of the month he was acquitted, on the ground that his offence was not committed within the jurisdiction of the court, the acts they had deemed treasonable having been committed after he left Blennerhasset's Island. The Executive was then disposed to re-commence a prosecution against him, in which his offence against the laws would be tried on its merits; yet in the more pressing concerns which immediately afterwards engrossed the attention of the Administration, the purpose was abandoned. Burr then embarked for England, where it is understood he employed his talents for intrigue in vain attempts to form new projects to gratify both his ambition and desire for revenge.

While this trial was going on, the public attention was roused to an object of still greater interest. From the time that the treaty recently negotiated with Great Britain had been so unceremoniously rejected by Mr. Jefferson, the injuries inflicted by her naval power upon the ships and commerce of the United States were more flagrant than ever; to which course their commanders were probably encouraged by the unsparing denunciations of the Administration by the Federal press. They proceeded at last to a point which reached the utmost limit of forbearance on the part of the United States; and had the Administration been so disposed, a very large majority of the American people would have supported it in an immediate declaration of war.

On the twenty-third of June, 1807, the British ship Leopard, of fifty guns, Captain Humphreys, near the Capes of Virginia, hailed the United States frigate Chesapeake, Captain Barron, just from Hampton Roads, and sent his boat on board, with a written message to Barron that his commanding officer, Admiral Berkeley, had in-

structed him to search for deserters on board the Chesapeake, and to take any he should find by force, if necessary. He at the same time offered to allow Captain Barron to search his ship for American deserters. Captain Barron having refused the permission to search, stated that he had instructed his recruiting officers not to enlist British subjects, and that he had no knowledge that any were on board his ship. On the return of this answer, the Leopard fired into the Chesapeake, and the latter being taken by surprise and unprepared for action, did not return the fire, but struck her flag. A boat from the Leopard having been then sent to the Chesapeake, the American officers tendered their swords to the British Captain, but he declining to receive them, demanded the muster-roll of the ship, and having taken off four men, whom he claimed as British subjects, left the Chesapeake, which then returned to Hampton Roads.

Three of these men — John Strahan, William Ware, and Daniel Martin — were native Americans, but had enlisted in the British service. They had escaped from the Melampus frigate while lying in Hampton Roads, in February, 1806. They were demanded in March of Captain Decatur by the British Consul at Norfolk, who refused to surrender them. It appeared by a report of Captain Barron to the Navy Department, that two of those men had been pressed on board the Melampus while they had protections, and on that account, it is presumed, Decatur refused to give them up.

The people of Norfolk and Portsmouth unanimously passed resolutions to discontinue intercourse with all the British ships-of-war then on the coast. They requested pilots and others to withhold their services, appointed a committee to correspond with the neighboring counties,

and to invite the co-operation of the principal sea-ports until reparation for the injury was made.

At Hampton, two hundred hogsheads of water on board of a vessel for the British squadron were destroyed by the citizens. Captain Douglas wrote to the Mayor of Norfolk that if their resolution of the twenty-ninth of June, prohibiting all communication between the British consul and ships, was not *immediately annulled*, he would stop every vessel bound to or from Norfolk: that the case of the deserters taken from the Chesapeake must be decided by the two governments alone: and that it therefore rested with the inhabitants of Norfolk, whether they should have war or peace. To this the Mayor replied with spirit, that they did not seek his hostility, nor should avoid it, if the occasion required it; and he added that the day (the fourth of July) ought to satisfy Captain Douglas that the American people were not to be intimidated by threats. Captain Douglas having disclaimed all intention of menace or hostility, he was subsequently permitted to communicate with the consul by letter.

On the second of July the President issued a proclamation, in which, after reciting the attack on the Chesapeake, he interdicts all commissioned armed vessels of Great Britain from the harbors and waters of the United States, and forbids all supplies to them, and all intercourse with them, on pain of the law; and all officers, civil and military, were called upon to aid in executing these orders, with the exception of vessels in distress, or bearing despatches.

The indignation of the people was never so great as at this outrage; and it was doubtless heightened by mortification at the fact that the attack on a public ship had been unresisted. There was scarcely a city, or even

town, in which there were not public meetings expressing the liveliest resentment, and tendering their support to the government in every measure it should adopt to vindicate the insulted honor of the nation. On this question all parties, in their first effusions of sensibility to national wrong, cordially supported the Administration.

Had the President been, as he was represented to be by his enemies, the obsequious tool of France, it had been easy for him to have, at that time, a war, and a popular war, with England; but he acted a wiser and more patriotic part. Knowing that the real interests of his country recommended peace, he was determined to preserve it as long as it could be done without dishonor: and if, in spite of all his efforts, war should prove unavoidable, he knew that a postponement of it would enable the merchants to get home their ships, and to furnish the country with those supplies for which it was most dependent on foreign countries, and would enable the government to make preparation both in men and the munitions of war. In the mean time, he ordered two thousand militia to Norfolk to enforce the interdict of supplies to the British squadron, and he determined to add to the stock of military stores on hand, trusting that Congress would give its sanction to this unauthorised expenditure.

An express was also despatched to the American Minister in London to ask of the British government satisfaction for the injury, and security for the future. But as it was foreseen that the pride of the British nation and government would probably prevent them from yielding what the United States had the right to require, and that war might eventually ensue, it was desira-

ble to keep up that unanimity which is so important an element of national strength.

The Administration required one hundred thousand men to hold themselves in readiness, in conformity with the act of the last session, and Congress was called together on the twenty-fifth of October—it being expected that, by that time, the answer of the British government to the demand for reparation would be received.

Congress convened on the twenty-sixth of October, 1807, and the next day they received the President's opening message. In stating the reasons which had induced him to call them together at an earlier day than usual, he begins with a notice of the treaty which had been the result of the negotiation with Great Britain; says that the American Ministers, in signing it, had declared they were acting against their instructions, and that their government could not be pledged for its ratification: that some of the articles might be admitted on a principle of compromise, but others were too highly disadvantageous; and no provision was made against the collisions which were constantly endangering the peace of the two nations. The Administration being anxious for peace, new modifications had been proposed, and further concessions authorised than had been previously supposed necessary. While trusting to the result of this renewed negotiation, an attack was made on the frigate Chesapeake, under the formal order from a British Admiral, by one of the vessels which had been hospitably received in our own harbors, by which attack several men were killed, and four were taken away. The character of this outrage had been pronounced, by the indignant voice of our countrymen, with an emphasis and unanimity never before exceeded: that he had then, by proclamation, forbidden all intercourse with

British ships-of-war, and ordered a force for the protection of Norfolk, and made such other preparations as seemed proper: an express vessel had been sent with instructions to our Minister to demand reparation.

That the aggression thus begun had been continued by the British commanders, by remaining within our waters, in defiance of the authority of the country, showing that we ought either not to admit any armed vessels within our waters, or maintain such a force as could insure obedience to our laws.

That, to former violations of maritime right, another has been recently added, by which all trade by neutrals between ports not in amity with them is interdicted—and as they are now at war with nearly every nation on the Atlantic and Mediterranean, this order compels our vessels either to sacrifice their cargoes at the first port they enter, or to return home without the benefits of going to any other market.

That our differences with Spain remain unsettled; but hope was entertained that they might soon be brought to an issue of some sort. She had passed a decree like the Berlin decree of France: whether its construction and application to the United States will conform to that of France, had not been ascertained.

That our relations with the other nations of Europe and on the Barbary coast continued friendly.

Our Indian neighbors had, soon after the late occurrences which threatened our peace, given symptoms of restlessness. Precautionary measures had been taken to keep them quiet. These had been successful with the tribes nearest to us.

The sums appropriated for fortifications had been expended chiefly for the defence of New York, Charleston, and New Orleans, as "most likely first to need"

protection. The gunboats, for a similar reason, had been chiefly assigned to New York, New Orleans, and the Chesapeake. He suggests that, for manning these vessels, the seamen of the United States be formed into a special militia.

He had thought it prudent to enlarge the provision of military stores, and he relied on the sanction of the Legislature for what he had thus done.

Congress, he says, would decide whether a regular army was to be raised, and to what extent. He had, meanwhile, called on the States for quotas of militia; and he had encouraged the acceptance of volunteers, who had offered themselves with alacrity in every part of the Union.

He noticed the enterprize of Aaron Burr, which had been happily defeated by the patriotic exertions of the militia, the fidelity of the army, and the energy of the Commander-in-chief, Wilkinson. He felt it to be his duty to lay before them the proceedings and evidence exhibited on the arraignment of the principal offenders before the court. "You will be enabled to judge," he added, "whether the defect was in the testimony, in the law, or in the administration of the law; and the Legislature alone can apply or originate the remedy."

The receipts into the treasury had amounted to near sixteen millions of dollars, which, with the five and a half millions in the treasury, had enabled the government to pay above four millions of dollars of the public debt. In five years and a half, twenty-five and a half millions of dollars had been extinguished, and had left us eight and a half millions of dollars in the treasury—a part of which he recommended to be applied to the defence of the more exposed points.

The committee to whom the subject of aggressions by

foreign armed vessels was referred, made a report on the seventeenth of November. After stating the circumstances of the attack on the Chesapeake, they say, that until the answer by the British government to the demand for reparation was received, and it was known whether the outrage had the sanction of the government, they forbear to recommend the proper course to be pursued. But as there had been repeated aggressions on our rights before and since within our waters, by capturing vessels, impressing seamen, and dealing out threats against the inhabitants, they think that more effectual protection should be provided for the ports and harbors; and they formally declare the attack on the Chesapeake, and the subsequent continuance of the British squadron within the waters of the United States, after the President's proclamation, to be flagrant violations of their jurisdiction and rights.

On the eighteenth of December, the President communicated, in a confidential message, a proclamation of the king of Great Britain, of the sixteenth of October, 1807, in which all British seamen in foreign service, whether in public or merchant ships, are required to return home, and all commanders of ships-of-war are required to stop all such persons employed on any foreign merchant ship, but to commit no unnecessary violence to the vessel or rest of the crew; and to demand of foreign public ships British subjects serving on board, and in case of refusal, to communicate it to the British Minister resident, or the Lords of the Admiralty. This class of persons was further warned that letters of naturalization granted them by foreign States could not divest them of their natural allegiance, but a pardon was granted to those who should withdraw themselves from this foreign service, and return to their allegiance; and it was declared that

those who continued in such service should be proceeded against, and those who entered into the service of any State at war with Great Britain should be deemed guilty of treason.

This proclamation excited a lively sensation in the United States on several accounts. It affected thousands and tens of thousands of British subjects, especially of the Irish, who had become citizens of the United States, and whose affections, as well as interests, were wholly on the side of their adopted country. Many of them, moreover, had been thus naturalized from a deliberate preference founded on political principles.

As among the class of persons thus reclaimed by the British government there were many seamen in the merchant service, and some in the public ships, it was apprehended it might lead to future embarrassment whether they were led to desert the American service, or, as was more probable, they should, by remaining in it, subject themselves to penalties which the United States might feel themselves bound in honor to retaliate.

There were not a few also who regarded this claim of perpetual allegiance as a remnant of feudal barbarism, a political absurdity inconsistent with the enlarged notions of personal liberty then prevalent, and with the practice of the very nations who asserted the doctrine. Thus, Great Britain occasionally naturalizes foreigners, and should one of these, while in her service during war, be seized by the government of the country in which he was born, and be executed for treason, it was not doubted that both pride and policy would induce her to retaliate. Besides, to insist that man, endowed with locomotive powers, and the universal instinct of providing for his subsistence, should not be permitted to seek for those means in a foreign country which he cannot find at home — to

refuse to him this right is to regard him not as a free man but as a slave; and, supposing him in his new home, his allegiance is rightly transferred to the country which affords him the means of subsistence and protection.

On this point the respective advocates of the doctrine of prescription, and of liberal innovation, were at issue. More than one pen was employed<sup>1</sup> in examining the British doctrine, and not only was its authority impugned, when tried by the principles of reason and natural law,<sup>2</sup> but it was denied to have had that general assent of civilized nations required to establish it among the principles of settled law.

On the same day that the President sent this proclamation, he communicated the official interpretation which the French Emperor had made of the Berlin decree on the eighteenth of September, in which he declared that French armed vessels might seize, on board of neutral vessels, not only English property, but all English merchandize proceeding from English manufactories or territory; and that he merely postponed the question whether neutral vessels, with or without English merchandize on board, should be captured when proceeding to or from England. The government had, at the same time, received information from an authentic source, and which proved to be correct, that the British Ministry had issued an order in council against neutral commerce, of a similar character to the Berlin decree.

Under these circumstances, when no American vessel, in the prosecution of its customary and lawful trade, was safe, but was liable to capture under the unprincipled edicts and decrees of the two most powerful nations of

<sup>1</sup> See the tracts of George Hay and Peter Duponceau.

<sup>2</sup> Vattel recognizes the right of individuals to choose their country.

the world, the President considered it the wisest course for American ships to be kept at home, and he accordingly recommended to Congress to lay an embargo on them.

This proposal was forthwith discussed in both Houses in secret session, and a bill laying an embargo was passed on the twenty-second of December, at eleven o'clock at night, by eighty-four votes against forty-four. A similar bill had received the sanction of the Senate on the very day the subject was communicated, by twenty-two votes against six. According to its provisions, all American vessels were prohibited from sailing from foreign ports, all foreign vessels from taking away cargoes, and all coasting vessels were required to give bond to land their cargoes in the United States.

The embargo encountered lively opposition from the Federal party and their Republican allies. Nor was there, in the rest of the nation, the same unanimity as had existed for retaliating the attack on the Chesapeake. Some thought it would have been a wiser policy to allow a free export of American products in foreign ships, by which the principal profits from foreign commerce would be secured to the country, while American property in ships and merchandize would be saved from spoliation. The complaints of the total stop which was thus put to all foreign trade were less loud, because it was believed by many that while the measure was seriously felt by the United States, it would be felt still more seriously by their enemies.

On the twenty-second of November the President sent to both Houses of Congress the proceedings in the trial of Burr and his associates. The reasons assigned by him in his opening message for these details, had eminently provoked the resentment and reproaches of the Federal-

ists, on account of the censure it seemed to cast on Chief Justice Marshall; and for the same reason it was unacceptable to some of the Republican party, with many of whom the mild virtues, and simple, unostentatious manners of the Judge made him an object of respect and regard. Those virtues had, to some extent, disarmed the fierce spirit of party, usually so inexorable.

Among the persons involved in Burr's conspiracy was John Smith, a Senator from Ohio. He was comprehended in the bill found by the grand jury at Richmond.

A committee was appointed in the Senate to inquire into the facts of the case, and whether Smith should be permitted to hold his seat in the Senate. The committee made a report against him, when he was allowed to defend himself by counsel against the report, and by adducing evidence. The question of his expulsion was taken on the ninth of April, when there were ten votes in the negative, and nineteen in the affirmative; they wanting one of the two-thirds required by the Constitution, he of course retained his seat — but on returning home, he sent in his resignation.

The day after Mr. Canning, the Secretary for Foreign Affairs in England, had received the proposal of the American Ministers to renew the negotiation for a treaty, he informed Mr. Monroe, in a note, of the encounter between a ship-of-war of His Majesty and an American frigate, in which some lives were lost on board of the frigate, he expressed lively concern for the result, and assured him that if the British officers had been culpable, the most prompt and ample reparation should be made.

Mr. Monroe had not then received the intelligence; but having received it in the course of two days, he writes to Mr. Canning that, without waiting for instruc-

tions, he feels it his duty to mention the attack on the Chesapeake, the particulars of which he states, but that he forbears to mingle other causes of complaint with this; and he trusts that the British government will promptly disavow the act, and give assurance that the officer who is responsible for it will receive punishment.

Mr. Canning replied<sup>1</sup> that, after the assurance he had already given of His Majesty's readiness to make reparation for any injury done to the sovereignty of the United States, as soon as it appeared it was due, he was surprised at the tone of Mr. Monroe's note. He declares that His Majesty has never maintained the right to search ships-of-war for deserters, and if it should appear that the act rests solely on this pretension, His Majesty has no difficulty in disavowing the act, and in manifesting his displeasure. In conclusion, he says that as Mr. Monroe does not think the present a proper occasion to mingle other causes of complaint with this, he laments that he had not abstained from alluding to them.

The Minister informed his government that the issue of his negotiation was quite uncertain : that there was a strong party in England in favor of a war with the United States, which was composed of the ship-owners, the officers of the navy, the East and West India merchants, besides leading political characters.

Some days afterwards, Mr. Canning inquired of Mr. Monroe whether the President's proclamation, which had been published, was authentic, and whether the government of the United States meant to carry it into effect, without waiting for an explanation on the part of the British government. Mr. Monroe replied that he had not yet received any instructions, but would give the information as soon as obtained.

<sup>1</sup> August 3d.

His instructions having been received, he (early in September) enters on the negotiation by letter, and formally asks reparation, which he enforces at great length, and also urges the settlement of the question of impressment, as inseparably connected with it.

Mr. Canning replied, on the twenty-third, that, so far as the United States have assumed upon themselves measures of retaliation, the British government may take those measures into account<sup>1</sup> in estimating the reparation. He inquires if the proclamation would be withdrawn on the disavowal of the act; and remarks, that the circumstances which may have led Admiral Berkeley to commit an act of hostility, if they cannot justify, may possibly extenuate it, and consequently make a part of the present question; for if the men taken were British subjects, the refusal to deliver them up might be regarded as an act of hostility committed by the United States; and though the act of the British officer would still be unauthorised, the question would be materially varied as between government and government.

He regrets that Mr. Monroe has mingled with the subject that of impressment; and in reply to the remarks of Mr. Monroe, that “its connection with the late disastrous incident has been produced by an extraordinary act of violence, of which they were the victims only; that act, which exhibits the pretension in its widest range, has become identified with the general practice in the feelings and sympathies of the nation, and in the sentiment of the government,” he observes that, “with every attention due to the feelings of the people of the United States, I am sure you will readily allow that those feelings cannot properly be considered as affecting the merits of the case.” He says the right of impressing

<sup>1</sup> VI. State Papers, page 108.

their subjects found on board of foreign ships, public or private, has been exercised by Great Britain from the earliest ages, though for more than a century it has been confined to merchant vessels, and involves some of the dearest interests of Great Britain; and at a proper time she will be ready to discuss it, and subject it to such regulations as may be agreed upon, but that the adjustment of the present difference, and the healing of that deep wound on the national honor, ought not to be dependent on the settlement of a question that has hitherto been found so difficult."

He then states that he is prepared to discuss the case of the Leopard and Chesapeake; but if Mr. Monroe cannot discuss it separately, his government cannot have its consent to discuss the right of searching merchant ships for deserters extorted as the price of an amicable adjustment. As in that case further discussion would be unavailing, His Majesty, in conformity with the disposition he has already manifested, would send a special Minister to the United States, with instructions and powers to bring this dispute to a conclusion; but without power to treat of the right of searching merchant vessels.

Mr. Monroe admitted that his instructions to blend the two questions were positive, since they were inseparable for any useful purpose, as it was only in this way that remedies could be provided for the injuries of which both parties complain. The proclamation is justified by the repeated violations of neutrality and abuses of hospitality before and after the attack on the Chesapeake. It was a measure of precaution, not of retaliation. He should apprise his government that a Minister would be sent from Great Britain.

Mr. Monroe now availed himself of the permission of

the government to return home, to which he had been earnestly urged by those friends who wished him to become a candidate for the Presidency ; and he reached Richmond, in Virginia, in December, while the Legislature of that State was in session. He there met with a most cordial reception, which his zealous friends were very active in their efforts so to improve, as to secure him the vote of his native State, without which it was naturally presumed he could not obtain the majority of the nation.

An Envoy from Great Britain, Mr. Rose, subsequently arrived in the United States, and in a letter addressed to the Secretary of State, stated that he was precluded, by his instructions, from entering on the subject of reparation until the President's proclamation was withdrawn, as it was injurious in its effects, and indicated a spirit of hostility ; and that, from the orders given to the navy officers in the king's proclamation, on the tenth of October, there was no ground for the interdiction by way of precaution. He objects to mingle any other question in this discussion, and such, he said, had been Mr. Monroe's original opinion.

Mr. Madison replied<sup>1</sup> that, before the proclamation could be considered, satisfaction should be made for the aggression which preceded it. This was conformable to the order of time, and of usage as maintained by Great Britain herself in similar cases. He then notices the several aggressions which occasioned the proclamation. The case of the Cambrian, the Leander, and the Leopard, and the subsequent conduct of Captain Douglas : that the President, feeling himself compelled to resort to this precautionary measure, had lost no time in representing it to the British government, and in asking reparation, and

<sup>1</sup> March 5th.

he the more expected it, from the course pursued by Great Britain, who had always insisted on matters being placed in their former condition before counter complaints were heard; and he referred to the cases of Turk's Island, in 1764; of the Falkland Islands, in 1770; and of Nootka Sound, in 1789.

He then assigned reasons for blending the subject of impressment with that of reparation: First, because they rested on kindred principles; second, from the desire to improve a particular incident into an occasion of restoring harmony; third, because the liberal character of the proposition intended to be made could not fail to meet the approbation of the British government. He sees, with regret, that the step taken for a more enlarged accommodation should be a bar to the adjustment of the recent cause of difference, and that the first step towards adjustment was expected to be taken by the United States.

The grounds on which Mr. Rose's requisition is made are then examined — the disavowal of the act; the assurance that the reparation will be satisfactory; that the continuance of the proclamation was an act of hostility — and they are shown not to be sufficient. But the President, anxious to testify his moderation, and to restore harmony, is willing, on Mr. Rose's disclosing the terms of reparation which he thinks will be satisfactory, and their appearing to be so, to make the repeal of the proclamation of the same date as that of the reparation.

This proposition was declined, and with it the negotiation, it conflicting with the Envoy's positive instructions. With a view of removing all misapprehensions of His Majesty's demands, Mr. Rose reviews the transactions which had led to these discussions, and again insists that the proclamation was not required as a measure of precaution. He defends the course of the British naval

commanders since the affair of the Chesapeake, as indicating forbearance, and as justified by the fact that an enemy's squadron was harbored in these waters. He insists that the course formerly pursued by Great Britain was the same as at present — she refusing to treat as long as hostility was manifested towards her.

He gives his reasons why the affair of the Chesapeake was considered as the cause of the proclamation; and he animadverts on the offensive tone of the proclamation; says that if other alleged injuries constituted part of the ground, it ought to have been so stated in the demand for reparation in September, especially as the proclamation had been the subject of remonstrance by the British Envoy at Washington. After this it neither could be expected that the proclamation would be overlooked, nor, after Mr. Monroe's declaration, that the American government would seek to blend other subjects with this. He did not therefore come prepared to discuss any other question, and he forbears to make any comments on the transactions referred to by Mr. Madison, which his personal knowledge would enable him to do. For the same reason he forbears to discuss the right of searching merchant ships for British seamen — a claim which Great Britain has always asserted, and founds on the principles of universal law. He says that the other topics in his former letter were urged by him as proofs of His Majesty's amicable dispositions, but not as foundations of right, on which he relied for the recalling of the proclamation. He denies that the first step in the proposed adjustment is required of the United States, as that had been already taken by Great Britain. He had transmitted to his government Mr. Madison's exposition, and it would be for that government to decide what obligations remain to be fulfilled by Great Britain; whether

her conduct has justified the continuance of the hostile edict; and whether the present negotiation ought to be resumed. This letter concluded the correspondence, and about the last of March Mr. Rose returned to England in the same frigate which brought him out.

This correspondence, at once published by Rose, furnished abundant aliment for party controversy. By the Federal party, or the greater part of them, the claims asserted by Great Britain were pronounced to be right, and the Administration was censured for suffering points of etiquette to stand in the way of adjusting a serious dispute with the nation whose enmity was most to be dreaded by us, and whose friendship was most profitable. With the Republican party there was no division. They thought that the government had conceded enough, and even more than enough, to British arrogance.

Events were soon disclosed to show that the adjustment of this question could have had little influence in securing respect for the maritime rights of the United States, while, in the great struggle for the mastery then going on between Napoleon Bonaparte and Great Britain, every thing was disregarded but as it conduced to that object. Instead of the ordinary policy of trying to conciliate neutrals, they both seemed now to vie in the opposite course of trying, by harsh measures, to drive them from their neutrality.

Early in February the President communicated to Congress the British orders in council of the eleventh of November preceding.

By these orders all the ports of France and her allies, and those from which the British flag was excluded, were subjected to the same restrictions as if they were in a state of blockade. All trade with the ports of an enemy was forbidden, except, first, trade to and from

those ports direct to the ports of a neutral, and from British free ports, so far as their regulations permit; second, trade from or to ports of Great Britain, Gibraltar, or Malta, or ports of His Majesty's allies. Vessels having on board certificates of origin required by French regulations, were made liable to capture.

The object of this order was to cut off all trade with France, except what was required for the consumption of such neutral country, or was carried on from Great Britain. The object of the second order was to repeal the navigation law, so far as to allow any foreign vessel to import into Great Britain articles of the growth or manufacture of an enemy's country, and there pay a duty, and to re-export all merchandize so imported, except sugar, coffee, wine, brandy, and tobacco.

The Emperor of France, finding his violations of neutral rights thus followed and counteracted by her enemy, on the seventeenth of December issued a decree at Milan, which interdicted all neutral trade whatever. Referring to the British order in council of the eleventh of November, which was intended, it averred, to give Great Britain the entire dominion of the ocean, it declared that whatever vessel submitted to be searched by an English ship, or to make a voyage to England, or should have paid to her any tax, was thereby *denationalized*, and the same, wherever found, in port or at sea, was declared lawful prize, as were also all vessels sailing to and from British ports. These decrees (the Berlin and Milan) were to be abrogated as soon as England returned to the principles of the law of nations. Spain issued similar decrees.

The President subsequently communicated to Congress the correspondence between Mr. Madison and Mr. Rose, the instructions to Mr. Monroe, and his correspondence with Mr. Canning: also the papers connected with the

relations between the United States and France: and, withdrawing his former request that part of these papers should not be published, as tending to check the freedom of communication, he declares that, as this caution had given occasion for unfounded suspicions, he wished the whole to be published.

One of the consequences of the schism in the Republican party was, as has been mentioned, that there were two candidates for the Presidency in that party — the minority gave a preference to Mr. Monroe, while the great body of the party preferred Mr. Madison; and Mr. Jefferson himself, though he professed neutrality between his two friends, was supposed to incline the same way. At one of those informal meetings at Washington, resorted to for the sake of securing to a party its undivided strength, familiarly known by the name of *caucus*, Mr. Madison received eighty-three votes, Mr. Clinton of New York received three, and Mr. Monroe three. At Richmond, in Virginia, the friends of the two gentlemen in the Legislature held separate similar meetings, at one of which Mr. Madison received the unanimous vote of the one hundred and twenty-four members: at the other meeting, Mr. Monroe received forty-seven votes, and Mr. Madison, ten — making in all one hundred and thirty-four votes for Madison, against forty-seven, which votes were decisive of the question in Virginia, so far as the Republicans were concerned.

On the thirtieth of March the President sent a confidential message to Congress upon the subject of the relations with England and France, and suggested the expediency of making part of them public, as likely to strengthen the confidence and union of the people. These were a letter from M. Champagny, the French Minister of Marine, to General Armstrong; and another

from Mr. Erskine to the Secretary of State. It was clear, from the letters of both Ministers, that each of the belligerents had decided on excusing their violations of neutral rights by the example of their adversaries, and on making these injuries they thus inflicted a motive with Americans for exchanging the state of an unprofitable neutrality for one of open war, by which they would rid themselves of one source of the depredations on their shipping and commerce. The course thus pursued, as Mr. Madison justly remarked, "proved great ignorance of the character of the United States, and indeed of human nature."

Mr. Erskine's letter, dated the twenty-third of February, 1808, says His Majesty had hitherto forborene from measures of retaliation, in the expectation that neutral nations would have resisted the French decrees: that he would have been justified in declaring the whole coast of France, and that of her allies, in a state of blockade; but, being desirous of lessening the inconvenience to neutrals, as far as the principles of retaliation would permit, he had made exceptions in their favor, and allowed a trade between the United States and the colonies of her enemy—the exportation of the colonial produce of the enemy, instead of being altogether prohibited, according to the example of France, was permitted to the ports of Great Britain, and a re-exportation on the payment of a duty. This duty was to prevent the enemy from obtaining the produce of his colonies at a cheaper rate than that of the British colonies, and to enable America to indemnify herself for what she thus advanced. Another relaxation was, that all American products, except cotton, might be imported into France through the British dominions without a duty. He contrasts these orders with the French decrees as to their effect on neutrals;

and concludes with expressing His Majesty's desire to see the commerce of the world restored to its ancient freedom.

Champagny's letter to Armstrong, dated the fifteenth of January, 1808, justifies the French decrees by the course pursued by Great Britain. He says the United States have more cause than any other nation to complain; and since the order of the eleventh of November, the Emperor had no doubt of a declaration of war against her by the United States. War then existed between them and England, and His Majesty considered it as declared from the day in which England published her decrees: that, under that persuasion, he had not taken any definitive measures against the American vessels brought into French ports. They were merely sequestered "until a decision could be had thereon, according to the dispositions which should be expressed by the government of the United States."

The claims of forbearance by Great Britain towards the United States were sufficiently preposterous and offensive, but far less so than the barefaced insolence of this attempt of the French despot to make use of their own property, lawlessly captured, to bribe them into a war with his enemy; and the forbearance of this country, when its independence was thus recklessly assailed by the belligerents, may be matter of wonder as well as indignation to their posterity, who do not fairly appreciate the difficulties under which their country then labored, assailed as it was by nations as powerful as they were unscrupulous.

The committee to whom these documents were referred, on the sixteenth of April, made a report in which they review the injuries sustained by the United States from the belligerents of Europe, in the present war, and

they notice, first, the British order of June, 1803, unlawfully restricting the trade of the United States: second, the condemnation of American vessels under the rule of 1756 — and the committee state that although the decisions of the British Courts of Admiralty, under this rule, had greatly varied, there were still heavy claims for indemnity under its illegal decisions: third, blockades not warranted by the law of nations—these are particularly noticed: fourth, blockades by British naval commanders: fifth, the proclamation of the preceding October, which authorised the impressment of British seamen from American vessels.

The committee then notice the illegal decrees of the French government. The first was a decree of General Ferraud at St. Domingo, which was the pretext for the British orders of January and November, 1807. These again had been followed by the Berlin and Milan decrees.

The committee consider, in succession, five several expedients of redress. First. Protection of commerce by public ships-of-war. Second. Protection by private armed vessels. Third. A war of offence as well as defence. Fourth. A general suspension of foreign commerce. Fifth. An embargo on ships, sailors, and merchandise.

In noticing the last expedient, which had been already adopted, in anticipation of the illegal measures of the belligerents, they remark that its expediency was proved by the large number of American vessels captured before they could get into port. After considering the other expedients, they recommended, for the present, a continuance of the embargo; but since a juster course of conduct on the part of the belligerents might render it unnecessary, they further suggest that a power of sus-

pending it be given to the Executive until the following session of Congress; which power was given in case peace should take place between the belligerents of Europe, or if such changes in their measures took place as might render the commerce of the United States sufficiently safe.

A hope was then entertained that peace between France and England might be brought about by the intervention of Austria, long the ally of Great Britain, and now connected by marriage with the new dynasty of France. The course recommended by the committee was accordingly adopted.

Mr. Gardinier, of New York, opposed the bill introduced to enforce the embargo. Provoked by the personalities of Mr. Campbell, of Tennessee, he sent him a challenge, and in the duel which ensued Gardinier was dangerously but not mortally wounded.

In the meanwhile, the expedient resorted to, of saving American property from the European belligerents, and of making them feel the inconvenience of their own injustice, pressed sorely on the American people themselves. The staple products of the United States, dependent on foreign countries for a market, were rendered of small comparative value, and some of them did not repay the cost of production. The supply of foreign commodities to which the people had been accustomed, being also cut off, their price rose exorbitantly high, just as their means of purchasing them diminished. The embargo bore particularly hard on the seafaring class, as many of them were unfit for any other occupation; and the ships not only lost their former profitable employment, but were every day incurring cost, and lessening in value. These evils were most severely felt in the navigating States of New England, which, finding advan-

tageous employment for their ships, seamen, and capital, in foreign commerce, now that source was cut off, had not, like the agricultural States, a resource in agriculture. These were merely deprived of the means of purchasing foreign luxuries, but the others were deprived of the means of earning subsistence. Manufactures, indeed, proved a source of profit to some, but the numbers thus benefited were then comparatively few, since it takes time to provide the skill and machinery necessary to the success of this branch of industry. It thus happened that the course adopted by the party in power was that which bore most heavily on that portion of the country in which the Administration had been most warmly and generally opposed.

Without doubt, as a temporary expedient, the embargo saved a great deal of American property from the rapacity of English and French cruisers, and that, as long as it lasted, it operated injuriously on those nations, especially England, whose West India colonies had been altogether dependent on the United States for their supplies of breadstuffs, and most of their supplies of lumber. The States were, moreover, profitable consumers of their rum and molasses, and occasionally of their sugars; but the effects of the embargo were greatly overrated in the United States, and by none more, perhaps, than by the Administration itself. The dependence of the West Indies on the trade with America, in the first place, was not so entire and exclusive as had been assumed. Many articles which had been previously furnished by the United States, could be procured from other countries, though not at so cheap a rate; and some of those very articles, grain for example, it was found could be raised in the islands, when necessity required it, though their lands might, in ordinary times, be more profitably em-

ployed in raising sugar. But there was one radical error in the embargo, as a means of coercion on the belligerents. It deprived each of them of the trade of but one nation, while it deprived us of the trade of all. Whatever was the inconvenience sustained by Great Britain, by being cut off from her accustomed supplies of tobacco, cotton, lumber, and provisions, they were well aware that the suspension of all commercial intercourse was more felt by the United States than a partial suspension of it by themselves; and the Opposition, by the usual sacrifice of patriotic to party feelings, took pains to impress this fact upon the friends of British statesmen, so that they were induced to submit to the inconvenience of the embargo, under the persuasion that its heavier pressure on the United States would soon compel them to take it off. Could either nation have been once satisfied that the other nation would continue to bear the privations to which the embargo subjected them, it is highly probable it would have withdrawn from the contest of endurance long before the embargo law was repealed; and either the United States would have resorted to war, or the obnoxious edicts of the belligerents would have been repealed.

Of the three alternatives presented to the nation, embargo, war, or submission, there was no one who openly advocated the last; but of those who regarded war as a less evil than a protracted embargo, there was much diversity of sentiment. Some thought that the United States ought to go to war with France, and some with England, as they believed one or the other to have first violated the rights of neutrality, and according to the sentiments of hostility entertained towards those nations; while a small number, regarding the conduct of both as indefensible, whichever may have taken the

lead in the course of injustice, were for going to war with both nations. Some who were not the advocates for war, yet wished the embargo repealed, and were willing to let the merchants arm their ships in self-defence. They insisted that, whatever might be the risks to which the American vessels and their cargoes were exposed, they would not be sent to sea and voluntarily encounter those risks unless the average profits of the business they were engaged in indemnified them; and the expense of such indemnity being a regular charge on the cost of transportation, must fall on the foreign consumer. Their trade, moreover, would not only be profitable to the mercantile class, but also benefit both the agricultural producers, by raising the price of their products, and the whole class of consumers by making all foreign commodities cheaper and more abundant.

It must be confessed that the foreign relations of the United States were, at this time, most vexatious and embarrassing. If, to avoid the perils and evils of war, they should withdraw from the ocean, that course would throw so many out of employment, dry up so many sources of wealth, and inflict so much discomfort and privation on all classes, as to strain the public endurance as far as it would bear; and it even threatened a separation of the Union. If they ventured on war, they were unprepared for it in money, in soldiers and seamen, and in ships, or fortifications. Their sea-ports, holding out tempting objects of booty, might be sacked and destroyed, while they had no means of annoying their enemies, except occasionally capturing such of their vessels as were not under convoy; and when peace should be made between France and England, as must take place, sooner or later, and this country had to encounter the undivided strength of either, the disparity would be

so great between those nations in which it is easy to raise large armies, and this country, in which it is so difficult to recruit any but a few of the most worthless and desperate of our citizens, that it was not easy to say to what straits and humiliations we might be reduced; nay, it was not impossible that Napoleon, displeased with this country for resisting his wishes, and feeling no respect for us as a pacific and mercantile community, might become the close ally of his present enemy, and it might be thought good policy in these monarchical governments to put down for ever that republican spirit, which, originating here, had caused the revolution in France, and had found friends and admirers in every part of Europe; and though, if we were united, with the natural resources we possessed, they would be foiled in their crusade against civil liberty here, yet what an incalculable amount of suffering might these States not undergo in defence of their national independence. When such results were seen in the distance, it is no wonder that the prudent and patriotic statesman hesitated before he would consent to involve his country, at this time, in the hazards of war.

Such was the aspect of affairs when Congress adjourned on the twenty fifth of April.

In the autumn of this year the Presidential election was decided, and as Mr. Madison had received the nomination of a large majority of the Republicans in Congress, that was sufficient to ensure him the votes of that party, constituting a large majority of the nation. He accordingly received one hundred and twenty-two votes of the one hundred and seventy-five; C. C. Pinckney, of South Carolina, received forty-seven votes; and George Clinton, of New York, six votes. The latter also received one hundred and thirteen votes as Vice-President, and was

consequently elected. Mr. Madison received the unanimous votes of the nine States of Vermont, New Jersey, Pennsylvania, Virginia, South Carolina, Georgia, Kentucky, Tennessee, and Ohio; and a majority of the votes of New York, Maryland, and North Carolina. He thus had the votes of all the States, except of four in New England, and of Delaware.

Congress met on the seventh of November, the day appointed at the preceding session, and the next day the President sent in his opening message. He tells them that no change had taken place in the conduct of the belligerents towards the United States, though both England and France had been informed by the American Ministers that on either revoking its unlawful edicts, the United States would take away the pretext of their acquiescence, under which the belligerents had sought to justify those edicts. These offers, it had been expected, from their former declarations, they would have acceded to. They had been modified according to the different circumstances of the two countries. To France, instead of a suspension of the embargo, war with Great Britain was indicated as the consequence. But to Great Britain it was stated explicitly that if she would rescind her orders, the United States would open their trade with her, and close it with her enemy, if he failed to rescind his decrees. These offers had been unnoticed by France, and rejected by England. The embargo of course continued, and had the effect of protecting our seamen, saving our mercantile property, giving us time to prepare for our defence — if it had also shown our moderation to the world:<sup>1</sup> that the attack on the Chesapeake remained unredressed, the former inadmissible prelimi-

<sup>1</sup> It must be recollect that this moderation was regarded, probably by the world at large, and certainly by the belligerents, rather with contempt than respect.

nary being still insisted upon. Our other foreign relations had undergone no change. Those with the Indian tribes were pacific; their attachment to the United States was increasing, and a portion of the Cherokees were then considering about an application to become citizens of the United States. Most of the fortifications undertaken would soon be finished. Of the gunboats authorised, one hundred and three had been built. They would make the whole number sufficient for the defence of the harbors. The recruiting service had been successful. Some detachments of militia had been found necessary for the enforcement of the embargo law on the northern frontier. Means had been taken to secure a supply of arms from domestic sources. The suspension of foreign commerce had impelled us to apply our capital and industry to internal manufactures and improvements. They were daily increasing, and little doubt remained that the establishments formed, and forming, would, under the auspices of cheaper materials and subsistence, of the exemption of labor from taxation with us, and of *protecting duties and prohibitions*, become permanent.

He informs them that the annual receipts of the treasury have been near eighteen millions of dollars: that two millions three hundred thousand dollars of the principal of the public debt had been discharged, and near fourteen millions of dollars were left in the treasury: that five millions of dollars more would be payable on the first of January next, which would make, in the six years and a half preceding, the whole payments of the principal thirty-three millions five hundred and eighty thousand dollars.

The further accumulation of money in the treasury, he thinks, deserves the consideration of Congress; and he asks whether the revenue should be reduced, or be

appropriated to roads, canals, and education, under the powers already possessed, or to be given by amendments to the Constitution. In this, his last address, he speaks gratefully to Congress of their past confidence and indulgence, and looking to the future destinies of the country, he sees in the qualities of his fellow-citizens a guarantee for the permanence of the republic, and that heaven has in store for our beloved country long ages of prosperity and happiness.

As, in the documents accompanying the President's message, the arguments by which the unprecedented assaults on our neutral rights were defended by the belligerents, and repelled by our Ministers, are fully noticed, a condensed view of them will here be presented. They give more than one instructive lesson both to the weak and the strong.

On the twelfth of March, 1807, Mr. Erskine, the British Minister, sent a formal notice to the United States of the Berlin decree, adding that his government, not exercising that retaliation which was justifiable, had merely issued an order of January, 1807, for preventing commerce between different ports of the enemy.

Mr. Madison, in his reply, remonstrated against this order, and the right of retaliation asserted in it; and Mr. Erskine having, in a letter dated the twenty-third of February, 1808, explained the character of the order of November, 1807, Mr. Madison, on the twenty-fifth of March, 1808, replied to him in full. He denies the fact that the United States had acquiesced in the French decrees, and he controverts the principle assumed by England, that one belligerent may retaliate to any extent, and under any modifications which may suit its pleasure. So far as the Berlin decree was a local regulation, it furnished to Great Britain no ground of com-

plaint; and so far as it was to be executed on the high seas, it could affect only neutrals: that, at the date of the British orders in November, 1807, the French decree was not known to have been executed in any instance — the case of the *Horizon* was the first: that the United States had the strongest reasons to believe the Berlin decree was not to be enforced against them, and as soon as it was known, they took measures to defend their rights.

Even admitting the right of retaliation, it could not justify Great Britain to the extent she had carried it. Retaliation is an equivalent for injury received, and there was no comparison between the injury she experienced and that she inflicted. The British order of January, 1807, itself declared that France was totally unable to enforce her pretended blockade of the British islands.

He said that since the United States did not acquiesce in the violations of their rights, they ought not to be involved in the controversy, on whichever side those violations began. He, however, reminds Mr. Erskine that, before the French decree, Great Britain had declared blockades that were not authorised by the law of nations. He speaks indignantly of the exceptions in the orders of November made in favor of neutrals, which were, in fact, badges of humiliation, inconsistent with national independence. One of these allowed a commercial intercourse with the colonies of an enemy, contrary to the rule of 1756. He denies that this is an established principle of national law; says that it is exclusively claimed by Great Britain; never by her before 1756, and then, not because such trade was illegal, but because it furnished presumptive evidence that the property belonged to an enemy: and the admiralty

courts themselves had sometimes enforced it, and sometimes disregarded it.

Referring to the other exceptions which allowed to the vessels of the United States a trade to the whole continent of Europe, on their first going to a British port, accepting a license, and paying a tribute, as if they were reduced to their former state of colonial dependence, Mr. Madison inquires, if the British policy be to subject an enemy to privations, why are channels open to a British trade which are shut to a neutral trade? and if the object be to admit a neutral trade, why are neutral vessels required to come to a British port, when it was known they were not then admitted into the ports of an enemy? He animadverts on the duty on cotton, and on the condemnation of American vessels for having "certificates of origin," though these are in conformity with ordinary domestic regulations.

On the twenty-ninth of March, Mr. Madison sent a further remonstrance against the British order in council of January, 1807.

Let us now turn to the course of France towards the United States.

On the twelfth of November, 1807, General Armstrong learned the decision of the French council of prizes in the case of the *Horizon*. This vessel was wrecked on the coast of France, was seized by the officers of the government, and though the value of the vessel was restored, that part of her cargo which consisted of English merchandize was condemned under the Berlin decree. The American Minister sent a remonstrance averring that the decision was contrary to the declaration previously made to him. One of the grounds taken by the council of prizes was, that the explanation given to General Armstrong was the opinion of an individual, and could

not weigh against the opinions since given by the Emperor himself.

On the twenty-fourth of November, M. Champagny wrote to General Armstrong that the American government could not complain of the measures of the French government, while they allow their ships to be searched by English ships, and submit to these wrongs: that France had been forced to these measures, and to more rigid precautions, in consequence of the intimate relations between the United States and England. England is therefore responsible for the inconvenience, and she ought to be fought with her own arms. "She disregards the rights of nations, and it is only by forcing her to a peace that those rights can be restored."

On the second of April, 1808, General Armstrong remonstrated<sup>1</sup> against the condemnation of American property under the Berlin and Milan decrees, they both being clear infractions of the treaty of 1800. He insists that the only pretext of justification — the acquiescence of the United States in wrongs sustained from Great Britain — is not true in fact; and though it were, the justification has no foundation in reason or law. He affirms that the United States had not submitted, and would not submit, to the usurpations of Great Britain, or of any other nation.

On the fourth of July, he answers<sup>2</sup> Mons. Champagny's letter of the fifteenth of January. He says the United States have the right to elect their own course as to England, as they have with regard to France: that the peremptory tone of Champagny's note was less adapted to the accomplishment of its object than to offend against the respect due to an independent nation: and that the alternative presented to the United States, of acquiescence

<sup>1</sup> VI. State Papers, page 17.

<sup>2</sup> Ibid. page 20.

in the views of France, and a confiscation of all American property sequestered, is equally derogatory to both governments—to *France*, as it imputes to her propositions founded in wrongs to individuals; and to the *United States*, as it implies a sacrifice of her rights to her pecuniary interests.

To the several remonstrances made by the American Minister against the destruction of American property, no answer was given by the French government.

In a letter<sup>1</sup> from Mr. Madison to Mr. Pinkney, dated the fourth of April, after stating what reparation for the attack on the Chesapeake would be deemed satisfactory, if the adjustment should be made in England, he urges the same considerations to repeal her illegal orders, as had been previously urged to France. He says it would be happy for all parties—the belligerents as well as the United States—if truth, in this case, could be made to prevail, and if the retaliatory rivalship against the latter could be converted into an emulation, as politic as it would be magnanimous in both, to take the lead, in a fair, lawful and conciliatory course towards a nation that had done no wrong to either. The example set by one nation would probably be followed by the other, and it could never happen that the party first doing justice would suffer on that account. He was further informed that, by an order of the navy department of the United States, no *foreign* seamen, whether *deserters* or not, would be permitted to serve on board of American ships-of-war.<sup>2</sup>

In his letter of the third of April, he notices the power of suspending the embargo given to the President,

<sup>1</sup> VI. State Papers, page 28.

<sup>2</sup> The British had not urged that the obligation of the United States extended further than to discharge deserters from their service.

and urges the consequences of a repeal, as to one nation, as a strong consideration with the British government.

He also wrote to General Armstrong on the twentieth of May, 1808, of the power given to the President to suspend the embargo, and requested him to inform the French government that the effect of revoking its decrees against neutrals would be to compel Great Britain to follow her example, or to be at war with the United States; and, on the other hand, should Great Britain revoke her orders in council, France could not persist in her decrees without forcing the United States into the contest.

On the eighteenth of July, 1808, Mr. Madison wrote<sup>1</sup> to Mr. Pinkney, and after noticing other points of controversy with Great Britain, he calls the Minister's attention to a new order in council, of an extraordinary character, which, by patronizing vessels without registers, invites American vessels to violate the laws of their own country. It was a further aggravation, that, according to a circular letter of Mr. Huskisson, one of the British Ministry, American vessels alone were within its province. He speaks in strong terms of reprobation of such an act against a nation towards which England professes friendship; which sets the odious example of encouraging smugglers, and which is inconsistent with the principles of public law. He also mentions the indignation excited in the United States against such of their citizens as trade under British licenses.

The same offer which General Armstrong had made to the French government, Mr. Pinkney made to the British; but it was peremptorily rejected. On the twenty-third of September, Mr. Canning said<sup>2</sup> to Mr. Pinkney that as the proposal to the French government

<sup>1</sup> VI. State Papers, page 33.

<sup>2</sup> Ibid. page 50.

had not met with a favorable reception, His Majesty must persist in that course which the measures of France had occasioned and justified. There was nothing in the embargo to induce him to alter it. If meant as a measure of hostility, it was manifestly unjust towards him. The redress should first be sought against the party beginning the wrong; and if it was an innocent municipal regulation, as it had been represented, with which no foreign state had any concern, then His Majesty had no right to complain of it. There was no reciprocity between a voluntary self-restriction, and the surrender of the right of retaliation. The Berlin decree was meant not only to impair the prosperity of Great Britain, but to annihilate her political existence; and the embargo, though not so intended, did come in aid of the French blockades: that these efforts had proved unavailing; and if the system was broken up, it was yet important to the reputation of England, which constitutes much of her power, that this advantage should not appear to have been purchased by concession on her part. He says the depression of other nations was not desired by Great Britain: that the prosperity of America is essentially that of Great Britain, and that her strength and power are not for herself, but for the world: that when a re-adjustment of the present differences took place, both nations would better appreciate the value of each other's friendship; and that it would not hereafter be imputed to Great Britain that she envied American industry, or was compelled to court an intercourse with her. He adds that His Majesty would do any thing to cause the repeal of the embargo, short of appearing to deprecate it as a measure of hostility, with a view of removing "an inconvenient restriction on the American people."

As the embargo was unquestionably injurious to Great Britain, in depriving her of an extensive and gainful traffic, and as Mr. Canning himself virtually admitted that it seconded the French decrees in operating injuriously on her interests, an offer to repeal it, and thus restore to her the commerce of which it deprived her, furnished a very proper ground on which the United States could require a repeal of the orders in council. The offer was made, because it was believed, for good reasons, more likely to promote the views of Great Britain than were the orders in council, both in extending her trade, and in bringing the United States into collision with France. There was then no foundation for assuming that the removal of the embargo was merely a benefit to the United States, and to refuse the proffer to repeal it, as if it was a favor asked, and not a matter of reciprocal advantage. Such a piece of disingenuousness would not have been resorted to, if it had not been to taunt the American government with the reproach, more than once adroitly insinuated, that the measure meant to injure Great Britain had been yet more injurious to the United States. This affectation of sympathy which was known not to be felt, was regarded by all the people of the United States whose love of country was not perverted by the party feelings of the moment, as adding insult to injury.

On the same day that Mr. Canning made this reply to Mr. Pinkney, he addressed to him another note, referring to their former conversation, to which Mr. Pinkney had also made reference. He says that the propositions to revoke the British orders were not the instructions of his government, and that when the embargo was recommended to Congress by the President, he had no knowledge of the British order of the eleventh of November.

Mr. Pinkney replied on the tenth of October. After noticing several minor discrepancies in their respective recollection of facts, he insists that he had assured Mr. Canning that he was instructed by his government to make the offer to repeal the embargo, but that the manner of conducting and illustrating the subject was his own. He had even repeated his instructions, and no doubt was expressed as to their existence or sufficiency. He admitted that he informed Mr. Canning that no copy of the orders in council of the eleventh of November had reached the United States, but that a recent change in the course of France was known, and that further measures of retaliation by Great Britain were anticipated; and that private letters had, moreover, informed his government that such measures had been actually adopted.

Mr. Canning replied on the twenty-second of November, in defence of his first statements; and while he admits that the propositions made by Mr. Pinkney were made on the authority of his government, yet as the manner, the time, and the conditions of the overture were left to the Minister's discretion, he regarded the proposition as, in a great measure, his own suggestion.

Further explanations took place, that were unsatisfactory to both parties, and led to no result.

The only reason that can be assigned for the pains taken by the British Minister to show that the British orders were not known when the embargo was laid, and could not therefore have been the motive for that measure, and that the Government of the United States had not given specific instructions to propose its repeal, was to afford materials of argument to the opposition in the United States, especially as no doubt could *then* be entertained that Mr. Pinkney had ample authority to make

the offer of repeal. This explanation is confirmed by the fact that Mr. Canning's letter found its way into the American newspapers before it was communicated by the British government; and it was to defeat its intended popular influence that the whole correspondence was communicated to Congress on the seventeenth of January, with a view to publication.

This power which foreign agents possess in popular governments, of appealing to the passions of the people, may seem to give them some advantage in diplomacy over that which they possess in countries wherein the popular will, or feeling, is of less importance; but if the maxim of the prevalence of truth is just—if full and free discussion is favorable to right conclusions, then this ready access to the public ear may be regarded as, upon the whole, beneficial to the public interests; presuming that the public sentiment will always maintain those interests in a popular government when it sees them, and is likely to see them whenever the subject is fully discussed. Genet made the same experiment, and though he at first met with partial success, the people finally supported the government. The French Directory subsequently tried the same insidious policy with the same result; and the efforts both of Mr. Rose and of Mr. Canning, to plead their cause before the American people, met with the like failure.

On the eleventh of November, the subject of the foreign relations of the United States was submitted to a committee, who made a report on the twenty-second. After a detailed and very perspicuous view of all the injurious and illegal measures of the two great European belligerents towards the United States, they inquired into the most eligible course for them to pursue. Having then considered the different expedients that presented

themselves, they decided against the repeal of the embargo, and in conclusion submitted three resolutions :

First. That the United States could not, without a sacrifice of their rights, honor, and independence, submit to the late edicts of England and France.

Second. That it was expedient to prohibit the admission of the ships or merchandize of either of those belligerents into the ports of the United States.

Third. That the country ought to be immediately placed in a state of defence.

Mr. Quincy made a speech against the policy of requiring the repeal of the British orders and French decrees as the condition for repealing the embargo.

Mr. Adams, in an answer to Mr. Pickering's attack on the embargo, maintained that all the difficulties of the United States grew out of the lawless maritime pretensions of Great Britain.

After a long debate, both in Committee of the Whole, and in the House, the two first resolutions passed by a majority of three-fourths of the votes, and the last unanimously.

In the Senate, on a motion to repeal the embargo, a similar debate ensued. It was supported by Messrs. Hillhouse of Connecticut, Pickering, and Lloyd of Massachusetts, and White of Delaware. It was opposed by Messrs. Pope of Kentucky, Smith of Maryland, Crawford of Georgia, Moore and Giles of Virginia. There were but six votes in favor of the repeal to twenty-five against it.

In this discussion it was earnestly urged by the Opposition that the object of the embargo was to further the views of France, and to ruin the commerce of Great Britain : that the British order of the eleventh of November could have had no influence in producing the

embargo, as it was not known when that measure was recommended, and every argument urged by Mr. Canning was reiterated in every form. There was this difference between the two parties. The Opposition openly defended Great Britain; but the supporters of the Administration condemned both belligerents, as having equally violated the rights of the United States, and equally deserved their resentment, both as to their conduct and their motives, though the injuries inflicted by Great Britain, by reason of her naval superiority, were so much more serious.

The measures adopted in pursuance of the last resolution were an appropriation of four hundred and seventy-five thousand dollars to fortifications, principally in New York; four frigates were ordered to be equipped, in addition to the naval force already in service; and an addition was made to the corps of marines—a preparation which was not likely to impress either the belligerents or the American people with the belief that the government really expected war. Yet no one, even of the majority, supposed that the embargo would be continued many months longer. Some were in favor of repealing it in the spring; some wished it protracted to the first of June, and a few to the first of September, but none to a later period. After it should be repealed, there was much diversity as to the course which should be adopted. It was proposed by Mr. Story, of Massachusetts, to provide fifty fast-sailing frigates; by Mr. Nicholas, of Virginia, that letters-of-marque and reprisal should be issued against both Great Britain and France after a certain day; by Mr. Bacon, of Massachusetts, simply that American vessels should be permitted to arm in their own defence; and by Mr. Durell, of New Hampshire, that the illegal capture of an American

vessel by either belligerent should be considered as a declaration of war; but each of these propositions being unacceptable to a large majority, they were all postponed on the tenth of February.

Among the other party calumnies against the Administration one was, that the two millions which had been appropriated in 1806 for the purchase of Florida had been obtained solely for the purpose of assisting France, and that the money had been actually sent out in the Hornet sloop-of-war, and paid to Napoleon. With a view of putting an end to this absurd story, General Smith, of Maryland, introduced a resolution in the Senate, requesting information as to the disposition of these two millions, remarking that he had met with many respectable persons in the Eastern States who believed the story, though every member of the Senate knew that not a cent of the money had been drawn from the Treasury.

The President accordingly transmitted letters from the Secretaries of State and of the Treasury, which showed that, under the authority vested in the President, the American Ministers, Messrs. Armstrong and Bowdoin, had been authorized to draw on Holland for one million of dollars, and on the United States for the same amount, if necessary: that the money could be used only for the purchase of Florida; and that the purchase having failed, no part of the money had been used. Mr. Gallatin, moreover, referred to his official reports to show, as they clearly do, that those two millions were unexpended.

The pressure of the embargo on all classes of the American people continued to be more and more felt, and in New England, where it was most heavy from the predominance of maritime and mercantile pursuits, the

discontent it excited was heightened by the influence of party politics. As the temptations to violate the law were very great, by the high price which American products generally bore in foreign markets, it was deemed expedient to pass more rigorous laws, and to give to the Executive larger discretionary powers for their execution. This necessary severity contributed to make the measure yet more distasteful, and furnished a new theme of party reproach against the Executive. In this state of things the party in power found it prudent, before the close of the session, to abandon their plan of continuing the embargo to the succeeding summer or autumn, according to their first intention, since they had good reason to believe that the opposition to it was so general and so strong in New England as to threaten not only the authority of the laws, but even the integrity of the Union.

It has since appeared that the Administration was informed by Mr. John Quincy Adams, who had lately represented Massachusetts in the Senate, and who, finding his support of the government unpopular with his constituents, had resigned, that it was the fixed purpose of the ruling party in New England, if the embargo was persisted in, to submit to it no longer, but to separate from the other States, at least until the existing obstacles to foreign commerce were removed; and that such was the pressure of the embargo, this party would be supported by the people. He further stated that a secret agent of Great Britain was then in New England, and through him every aid would be granted to the malcontents by that government to carry their project into execution, by reason of which all the present restrictions on the commerce between the United States and Great Britain would be unavailing.

This information at once induced the party in power to change its course; but it decided that while, under the circumstances, it would be expedient to afford employment to American ships and enterprize, it would also be sound policy to withhold the benefits of American commerce from France and England. With this view, Congress passed a law which repealed the embargo after the fourth of March, as to all nations except France and England, and interdicting with them all commercial intercourse whatever, by import or export, directly or circuitously. This was called the *non-intercourse law*. It passed on the twenty-seventh of February, 1809, by eighty-one votes to forty in the House of Representatives, and by a correspondent majority in the Senate.

The accuracy of Mr. Adams's information has been since called in question by the Federal party; the existence of any negotiation or intrigue of a British agent with any of the leading politicians of New England is emphatically denied; and the report is, by the more uncharitable, ascribed to a wilful misrepresentation on the part of Mr. Adams, for the purpose of recommending himself to the Executive; and which subsequently, they say, met its reward in his mission to Russia.

The course adopted by the party in power seemed certainly a prudent one. The discontents in New England were known to pervade all classes, and to be increasing. In most of its State Legislatures there was clearly a systematic purpose to defeat the measures of the government, especially the late law for enforcing the embargo.

This was the last important legislative act of Jefferson's administration. In a week after its passage, his second term expired, and he surrendered the helm of state to that countryman and friend who had, for so

many years, enjoyed his esteem and confidence; and who, for the last eight years, had been his chief counsellor and fellow-laborer in the discharge of his high official duties as Chief Magistrate.

We may now pause to review the merits and defects of this Administration.

One of its most unquestionable recommendations was the economy with which the public finances were administered. When Mr. Jefferson was elected, the national debt had received an accession rather than a diminution in the administration of Mr. Adams, and exceeded seventy millions of dollars. It had received a further increase of fifteen millions of dollars by a very advantageous purchase of territory, making in all eighty-five or eighty-six millions of dollars—yet, by means of Jefferson's strict adherence to economy in every part of the public expenses, he had, in the course of eight years, reduced the amount to fifty-six millions of dollars.

The merit of this reduction was the greater, as he had relieved the country from a system of internal taxation which was vexatious in itself, and a part of which, requiring domiciliary visits from the tax-gatherer, was uncongenial to the spirit of the American people.

In thus lessening the public burdens he had, in the same degree, lessened the Executive patronage, both in the repeal of the internal taxes and in that of the bankrupt law.

He had abolished all those forms and ceremonies which, copied from the monarchies of Europe, were not in keeping with republican simplicity; were constantly wounding the sense of equality—so general a sentiment in popular government; and were calculated to invite and cherish a desire for privileged orders. Thus

he had abolished levees, speeches to Congress at the opening of the session, and all rules of precedence.

But the chief glory of his administration was, that he added more than a million of square miles to the territory of the republic, at the cost of two and a half cents the acre, containing a full proportion of very fertile land, and securing for the citizens of the West a place of deposit for their produce, without which it was valueless for export. In the country thus purchased there are already four large States,<sup>1</sup> rapidly increasing in wealth and population, and also two territories,<sup>2</sup> that will soon be admitted into the Union. By this purchase he put an end to a troublesome controversy between the United States and Spain about boundary, secured a place of deposit on the Mississippi, and removed all danger of a separation of interests between the Western and the Atlantic States.

He had defeated the seductive schemes of an ambitious and able intriguer; and he had, by a well-planned expedition across the American continent, made his countrymen and the world acquainted with a vast region previously unexplored by civilized man. He had conciliated the Indian tribes, and laid the foundation for civilizing them by introducing among them husbandry and the mechanical arts; and purchased from them, on liberal terms, ninety-six millions of acres of land. He had so chastised the Barbary powers, who were preying on American commerce, as to effect the liberation of the American prisoners, and secure to the United States the benefits of a lasting peace.

He had weakened the party opposition to his administration, so that the States opposed to him had dwindled

<sup>1</sup> Louisiana, Missouri, Arkansas, and Iowa.

<sup>2</sup> Oregon and Minnesota.

down to two; and, but for the embargo, to which the country was driven by the arbitrary edicts of the European belligerents, rather than encounter the certain evils of war, he would probably have received their unanimous support. Under the injurious operation of that measure on his popularity, when his term of office expired, there were, of the seventeen States, but four from New England, and Delaware, opposed to his administration.

We may mention it, as among other benefits of this administration, that of the members of the Federal party, who had seriously believed the political principles of their opponents to be entirely inimical to many of the powers of the Federal Government which they most highly prized, and that their wild and visionary notions of civil freedom were inconsistent with the rule of law and order—many of them, out of New England, now found themselves grossly mistaken, and saw, with pleasure and surprise, that the same salutary powers which had been beneficially exercised by the former administrations were similarly applied by Mr. Jefferson; and that the obligations to the public creditors, the machinery for collecting and disbursing the revenue, the means of diplomatic intercourse, the regulations of the army, navy, and post-office, were, in all respects, the same as they had been. It was seen, too, that part of the prejudices which the Republican party had once entertained against their political adversaries no longer existed, after the powers of the government devolved on them; and thus a spirit of liberality and forbearance was created in men of both parties.

But here, as well as every where in human concerns, we do not find pure and unmixed good; but deduction must be made for a greater or less portion of

alloy. Some of the mistakes of the Administration may be imputed to errors of opinion — one of them has been already adverted to in speaking of the embargo. As an extensive trade was carried on between the United States and the West Indies in provisions, fish, and lumber, because those articles could be obtained on lower terms here than in any other country, this was regarded by many of our politicians as evidence of an entire dependence on this country ; and they believed that ruin to those colonies would necessarily ensue, if they were long deprived of their customary supplies from the United States. It was this which induced the government of the United States to overrate the effect of the embargo as an instrument of coercion, until the experiment, thus proceeding on false assumptions, seemed to be near rending the Federal fabric in twain.

The experiment of the gunboats was also pushed too far, not only because their value as a means of defence was probably much overrated, but, being disapproved by navy officers, their value was either denied or doubted by the public generally ; and they thus did much to confirm the impressions which Mr. Jefferson's enemies had industriously endeavored to inculcate, that he was a visionary and impracticable statesman : and, as often happens in the distribution of popular confidence and favor, when so many of his fellow-citizens were once persuaded of his lack of the practical wisdom required in a Chief Magistrate, he was blamed when he was right no less than when he was wrong. Thus his scheme of dry docks, to which no one now objects, was then as much denounced as that of gunboats. He thus experienced, among the army and navy generally, and no small portion of the community, a want of confidence in his fitness to conduct the affairs of the State in times of diffi-

culty, which opinion greatly weakens the power and efficiency of any administration. He therefore always negotiated with foreign governments under the disadvantage of the belief, that he would resort to any expedient rather than to the ultima ratio of nations; and if he should finally and reluctantly be brought to that result, that he was not qualified to conduct a war with ability and success.

Thus his decided and known aversion to war, the result of his settled and, in the main, just views of the national interests, had probably a sinister influence in all his foreign disputes. It tempted even Spain, habitually averse to a collision on this side of the Atlantic, by which she could not gain, and might lose, to rail and bluster, and indeed to offer provocations that would commonly be thought to justify war. It invited the lawless edicts of France and England, which openly set at nought the most undisputed of neutral rights, and prompted the insolent tone with which those lawless aggressions were asserted. They induced England to insist on the withdrawal of the President's proclamation, which was merely a negation of favors that had been abused, before she would make reparation for an acknowledged wrong. Nay, the attack on the Chesapeake itself may be referred to the same cause; and one can hardly believe that if General Washington or General Jackson had been President, Admiral Berkeley would have ordered an American public ship to be searched for deserters. In short, it seems to be with nations as individuals, that, to secure the respect of others, it is not enough to refrain from injustice, but they must also show that they will not tamely bear it. Had the United States shown a determination to resist by force the first undoubted violation of right, force had not been necessary.

This feature in Jefferson's Administration, which, whether we attribute it to an error of his judgment, or to the moral defect of over-caution, we must regard as due to him and his Cabinet personally, must also be held as a small comparative deduction from the merits of his otherwise prudent, prosperous, and truly Republican Administration.

The influence of Washington and Jefferson was very great on the minds and character of their countrymen, and in a thousand ways contributed to form that complex result which is called national character.

The purity, disinterestedness, and scrupulous regard to justice and propriety of Washington present to us a model which, admired by all, is mistaken by none, and often turns the balance in a mind vacillating between right and wrong, and infuses new life and energy into the virtuous and patriotic. The influence of Jefferson consists in lending new force to the jealousy of power, the hatred of inequality, and in the extension of popular rights and human happiness. But by the constitution of our nature, there is a wide difference in the extent as well as nature of these influences. That of Jefferson grows out of the strongest and most general of our interests; while that of Washington depends on the practice of self-denial: so that there may be fifty who adopt Jefferson's opinions for one who imitates the virtues of Washington.

In February, the Legislature of Virginia expressed their sense of his public services in a very complimentary address.<sup>1</sup>

<sup>1</sup> See Appendix.

## CHAPTER XV.

### MADISON'S ADMINISTRATION.

FIRST TERM.

1809—1811.

ON the fourth of March, 1809, James Madison entered on the duties of Chief Magistrate of that government which he had so largely contributed first to form, and then to carry into operation.

The Administration of no President was ever, in its commencement, so beset with difficulties and perplexities, whether we look at home or abroad. The ships and commerce of the United States were the undefended prey of the cruisers of England and France, with their numerous dependencies; and for their lawless acts no other justification was urged by either of those nations than the lawless acts of its enemies. The dishonor of the American flag, in the case of the Chesapeake, was not yet atoned for, and the impressment of American seamen on board of their own vessels was still unscrupulously practised.

The nation, writhing under these accumulated wrongs, was not agreed about the best means of resenting them; nay, the worst acts of both the belligerents found their respective apologists in the citizens of the United States. In this untoward state of affairs, what means had the new President of meeting his embarrassments? Though highly esteemed by his countrymen of the Republican party, he had never, like Jefferson, possessed their ardent affection.

His Federal opponents, too, had received a great accession of strength, in consequence of the embargo, in New England generally, and in all the commercial cities; and their leaders were among the ablest men in the nation. Even many of his own party, who had preferred Clinton or Monroe to himself, gave him a lukewarm support, and some felt a positive hostility which was the more injurious, as it wore the mask of friendship. Yet, confiding in the rectitude of his intentions, his fairness and impartiality towards both the great belligerents, and his liberal and conciliatory disposition towards his opponents, he entered on the duties of his administration with cheerfulness and a self-reliance which falsified the predictions of his enemies. He found efficient aid in Mrs. Madison, whose engaging manners and real goodness of heart were admirably fitted to make friends, and to keep them. He could also rely on the support of his friend, Jefferson, who had then lost little of his unrivalled popularity. The President, who, from temperament as well as principle, avoided vehemence and intemperance, selected, as the organ of the government, the *National Intelligencer*, a journal distinguished by its decorum, liberality, and good sense — his own characteristic virtues.

His inaugural address, at the delivery of which his friend and predecessor sat at his right hand, was briefer than addresses of this character had hitherto been.

After speaking of the honor conferred on him, and the responsibilities of his new office, he adverts to the present difficulties of the country, which were the more felt from the contrast to its previous unequalled prosperity.

"It is a precious reflection," he said, "that these difficulties were not chargeable on the United States, whose true glory has been to cultivate peace by observing justice and good faith to all nations. This unexceptionable

course had not defended them against the injustice and violence of the belligerents of Europe, who, in their mutual rage, had introduced principles of retaliation equally contrary to universal reason and acknowledged law. How long this illegal course would be continued cannot be anticipated. Convinced that the determined spirit and united counsels of the nation would be the safeguards of its honor, he repairs to his post with no other discouragement than what arose from his own inadequacy to his high duties. He makes a profession of the principles on which he proposed to conduct the administration, both as to the foreign relations of the country and its interior policy, which do not essentially differ from those previously declared on similar occasions. His path, he said, would be lighted by the example of his illustrious predecessors. He especially adverted to the one immediately preceding him, and expressed the sympathy with which his own heart was full, in the rich reward he derived from the benedictions of a beloved country. But the source to which he mainly looked for aid and support was in the well-tried intelligence and virtue of his fellow-citizens, and in the public councils.

The new Cabinet was thus composed: Robert Smith, of Maryland, was promoted to the State Department from that of the Navy, which was given to Paul Hamilton, late Governor of South Carolina; Albert Gallatin was continued as Secretary of the Treasury; and Cæsar A. Rodney, as Attorney-General; William Eustis, of Massachusetts, was appointed Secretary of War. In that portion of these appointments which was new, it was objected by some that the President had consulted geographical equality in preference to more important qualifications.

Soon after his instalment in office, the President was

called upon to interpose his authority in one of those collisions between the General and a State government which occasionally occur, as to their respective sovereign powers, the inconveniences of which — fortunately not frequent — may be regarded as part of the price we pay for the other numerous benefits derived from our complex political system.

This controversy grew out of rival claims to property captured at sea during the Revolution, one of which was sustained by a court and the Legislature of Pennsylvania, and the other by the Federal tribunals, until, after much litigation, the conflicting authorities, dividing the favor and support of the citizens of Philadelphia, seemed again about to make Philadelphia the theatre of civil violence. The interposition then sought by the Governor of Pennsylvania, the President, in a conciliatory letter, declined as beyond his constitutional powers.<sup>1</sup> But by the prudence and patriotism of the public authorities of the State, a resort to force was prevented; and this protracted controversy — known as the Olmstead case — was finally settled by submission to the Federal authority. Those who had resisted that authority were subsequently tried and convicted, but were pardoned by the President.

Some months before, Mr. Madison, with a part of his associates in Jefferson's Cabinet, had endeavored to convince the British government, through their Minister, Mr. Erskine, that it would be to the interest of that government, and would further their chief objects of policy, to repeal their orders in council against neutral trade; and they now seemed about to find these efforts successful.

<sup>1</sup> For a full account of this case, see Annals of Congress for 1810, in the Appendix, page 2254.

On the seventeenth of April, the British Minister wrote to the Secretary of State that His Majesty, regarding the proposed non-intercourse law, at the preceding session of Congress, as putting France and England on the same footing, he had received His Majesty's orders, in the event of such a law, to offer an honorable reparation for the aggression on the Chesapeake; regarding, as he did, the non-intercourse act as having produced a state of equality in the relations between the belligerents and the United States, he submits such terms of reparation as his Majesty believes will be accepted.

In addition to the prompt disavowal of the unauthorized act of his naval officer, whose recall, as a mark of His Majesty's displeasure, immediately ensued, His Majesty was willing to restore the men forcibly taken out of the Chesapeake, and, if acceptable to the American government, to make a suitable provision for the sufferers on that occasion.

Mr. Smith answered Mr. Erskine's note on the same day. After reciting the reparation offered, he says the President receives, with pleasure, the information that His Britannic Majesty is ready to make atonement for the insult and aggression committed in the attack on the Chesapeake.

As it appears that, in making this offer, His Majesty derives a motive from the equality now existing in the relations between the United States and the two belligerents, the President owes it to himself and the occasion to declare "that this equality is a result incident to a state of things growing out of distinct considerations."

With this explanation the President accepts the note delivered by Mr. Erskine, and will consider the same, when fulfilled, as a satisfaction for the insult and injury of which he has complained. But he adds that, "while

he forbears to insist on a further punishment of the offending officer, he is not the less sensible of the justice and utility of such an example, nor the less persuaded that it would best comport with what is due from His Britannic Majesty to his own honor.

The next day another note was received from Mr. Erskine, in which, after stating His Britannic Majesty's anticipation that "a reconsideration of the existing differences might lead to their satisfactory adjustment," he says he is instructed to communicate that His Majesty is about to send an Envoy to the United States, with full powers to conclude a treaty on all the points of the relations between the two countries: that, in the mean while, His Majesty would be willing to withdraw his orders in council of January and November, 1807, so far as respects the United States, in the persuasion that the President would issue a proclamation for the renewal of the intercourse with Great Britain, and that whatever difference of opinion should arise in the interpretation of the terms of such an agreement, would be removed in the proposed negotiation.

On the same day Mr. Smith replied that the disposition to have a satisfactory adjustment of the existing differences between the two countries, and to send a special Envoy, would be met by a correspondent disposition on the part of the President; and that, in case His Majesty should, in the mean time, withdraw his orders in council of January and November, 1807, the President would not fail to issue a proclamation under the authority given him by the non-intercourse act.

The following day<sup>1</sup> Mr. Erskine writes that, in consequence of the President's acceptance of the proposals made by him, he is authorised to declare that the orders

<sup>1</sup> April 19th.

in council of January and November, 1807, will have been withdrawn, as respects the United States, on the tenth day of June next. He is forthwith informed by Mr. Smith that, on the assurance that the orders in council mentioned will have been withdrawn on the tenth of June, the President will issue his proclamation that the trade of the United States with Great Britain will be renewed on that day; and a proclamation was immediately issued, dated the nineteenth of April, 1809, which, reciting the authority given by the non-intercourse act, and the declaration of the British Minister that the British orders in council of January and November, 1807, will have been withdrawn, as respects the United States, on the tenth of June, he declares that the said orders in council will have been withdrawn on the tenth of June, after which day the trade between the two countries may be renewed.

In consequence of this correspondence, which seemed likely to terminate the chief part of the commercial difficulties of the United States, and which would so materially affect their foreign relations, Congress was called together on the twenty-second of May.

When that body met, on the day appointed, there was evidence of one of those schisms in the Republican party which are so apt to arise in a majority that is too strong to fear opposition from the minority. Mr. Macon, who had been a popular Speaker for six years, was now opposed by his own party, and on the first ballot received but about a third of the votes. He then expressed a wish not to be elected, in consequence of an affection of his lungs; and on a second ballot, he received an accession of votes, but Joseph B. Varnum, of Massachusetts, was elected by a bare majority. It is probable that Mr. Macon's unabated friendship for Mr. Randolph, without

any suspicion of his fidelity to the Administration, concurring with local considerations, contributed to this change.

The next day the President sent his annual message to both Houses. He congratulates them on the change in the foreign relations of the country, which had brought them together. He then states the amicable arrangement that had been made with the British government, through their Minister to the United States, and congratulates them on the result of the policy which had been pursued by the government of the United States.

This fact had been communicated to our Minister at Paris, with instructions to press on the French government a revocation of its decrees.

The revision of the commercial law, adapted to this change, was recommended to Congress, with a suggestion to make such further alterations as would afford protection to manufactures.

He had, under the existing aspect of affairs, ordered all the gunboats, except those at New Orleans, to be withdrawn from service, and the one hundred thousand militia had been also discharged.

Of the additional frigates, ordered by the act of last session, two were already completed, or soon would be. The works of defence for the sea-ports had proceeded with as much activity as was found practicable.

The whole of the eight per cent. stock, amounting to five millions three hundred thousand dollars, had been reimbursed on the last day of 1808; and on the first of April, the sum in the treasury exceeded nine millions and a half. This sum, with the receipts of the year, would probably be sufficient for the public expenses. But the suspension of exports, and consequent decrease

of imports for the last twelve months, would greatly diminish the receipts of the year 1810, after which, if our foreign relations be undisturbed, the revenue of the nation would exceed its expenditure.

From the inconvenience of a session at that season, he had called the attention of Congress only to the matters that were particularly urgent.

The President's communication was received with the same favor that the arrangement with Mr. Erskine had obtained from all parties. The Republicans exulted in the success of their policy; the Federalists rejoiced in a good understanding with Great Britain, whose present fairness and liberality, they said, justified their past course; and all classes, as producers or consumers, anticipated the benefits of a commerce thus unexpectedly revived. In this, its sudden transition from stagnation to unexampled activity, all were made sensible that some half a dozen men who controlled the British councils were able, by the power of their navy, and their disregard of neutral rights, to affect the pockets and the comforts of every individual in the United States.

The general satisfaction caused by the arrangement with Mr. Erskine, though it greatly tempered party spirit, did not extinguish it. Three different propositions brought forward by Mr. Randolph had the effect of calling it forth.

On the day after the message, Mr. Randolph offered two resolutions; one that the additional military force raised under the act of April preceding, be immediately disbanded, and that the unexpended balances of the money appropriated for that force, and for gunboats, be applied to the arming and equipping the militia.

In his remarks on this resolution, he eulogized the militia, said that intrigue and corruption had cankered

the regular army to the very heart, and particularly denounced the Commander-in-chief.

The second resolution proposed a committee of inquiry whether the moneys drawn from the treasury since March, 1801 (when Jefferson's Administration commenced), had been faithfully applied, and regularly accounted for.

The mover remarked that it was due to the character of every Administration, especially of one which had come into power in the character of reformers, that a scrutiny into its money transactions should take place, and that such an inquiry had been invited by Mr. Wolcott, when he went out of office.

In the course of the desultory debate which ensued on these resolutions, Mr. Lyon was opposed to the disbanding of the army "on a few favorable words from Great Britain;" though he was willing it should be reduced. The first resolution was, however, referred to a Committee of the Whole. The second resolution, slightly modified, so as to extend to committees of the House as well as to the Executive, passed unanimously.

The second proposition of Mr. Randolph, brought forward the next day, was the appointment of a committee to inquire whether prosecutions had been entertained in the courts of the United States for "libels at common law," and to report such provision as may be necessary to secure the freedom of speech and of the press.

This resolution was founded on alleged prosecutions for libel in the State of Connecticut, and which were alleged to have been sanctioned, if not prompted, by the preceding Administration.

Mr. Dana, of Connecticut, confirmed the fact that such prosecutions had been instituted in his State; but he

subsequently expressed a doubt whether they had been procured by the influence of the Executive.

Mr. Troup, of Georgia, for the avowed purpose of defending the character of Mr. Jefferson, moved to amend the motion so as to inquire by what authority the actions had been instituted, and who were the instigators; to which Mr. Randolph said he had no objection. But there having been no formal action on this amendment, the resolution was passed in its original form, and a committee of five was appointed.

Mr. Randolph's third proposition was a vote of approbation for "the promptitude and frankness" with which the President had met the overtures of the British government towards the restoration of harmony and commercial intercourse between the two nations.

This resolution, which was to terminate in no legislative action whatever, gave rise to more debate than any other subject during the session. It was opposed generally by the friends of the late Administration, as conveying an indirect censure on its course in relation to Great Britain.

Mr. Bacon, of Massachusetts, after regretting that the proposition had been made, offered to amend it, by adding "and furnishes an additional proof of the spirit of accommodation on the part of the government of the United States, which has been at no time intermittent."

Mr. John G. Jackson, of Virginia, who was the brother-in-law of Mr. Madison, and now regarded as the leader of the Administration party in the House, then moved an indefinite postponement of the question. It was, however, debated in a wide range of party discussion, until the second of June, when, on motion of Mr. Jackson, it was laid on the table by a vote of fifty-four to forty-one.

The resolution was opposed by Messrs. Jackson, Fisk of New York, Johnson and M'Kee of Kentucky, Findley of Pennsylvania, and Rhee of Tennessee, on the ground that it was unnecessary, unusual, not within the scope of the powers of Congress; that it would constitute the House a council of censors, and that it reflected on the last Administration. Their opponents, who were Messrs. Randolph, Dana, Gardinier of New York, and Ross of Pennsylvania, replied to both parties, at the same time discussing the merits of the embargo, and other party topics: but while the speakers differed so widely about the merits of Jefferson's Administration, they were unanimous in their encomiums on his successor; and Mr. Dana, who had been one of the most decided opponents of Jefferson and his measures, said, "What has been the result of the recent arrangements? The reproaches of party, and the stigmatizing imputations, attachment to one or another foreign power, have been hushed; industry is revived; mutual gratulations have succeeded to the voice of reproach. The joy of hope succeeds to apprehension and anxiety throughout the nation."<sup>1</sup>

The other measures of Congress during the session gave rise to little irritating debate or controversy. The principal measure growing out of the purpose of the extra session was an act introduced in the Senate by Mr. Giles, by which so much of the embargo and non-intercourse acts as interdicted trade with Great Britain was repealed, while the part which excluded the armed ships of both nations was retained. This last provision, however, was much debated in the House; some preferring to admit the ships of Great Britain, and to exclude those of France, and others to admit the ships of both nations.

<sup>1</sup> Annals of Congress, 1808-9, page 138.

An amendment in the House, for the admission of both, passed by a vote of one hundred to fifteen; and by the Senate without opposition.<sup>1</sup>

Some sensibility was excited when, on discussing the provisions of the last bill, Mr. Livermore proposed an amendment which, declaring that no place not in the possession of Great Britain or France should be considered as one of their dependencies, would have permitted trade with the island of Hayti. The amendment was opposed by Messrs. Randolph, Macon, Smilie, and Dana, as injurious to the Southern States, and conflicting with the Constitution. The amendment was rejected by every vote but that of the mover.

A resolution proposing an inquiry concerning the prosecutions for libels at common law, and the expediency of remunerating the sufferers under such prosecutions, was offered by Mr. Stamford, of North Carolina, was discussed, and indefinitely postponed by sixty-nine votes to fifty.

A petition from thirty-five American citizens who had been engaged in Miranda's expedition against the Spanish settlements of South America, represented that they had been captured by Spanish vessels, and that they were then in a prison at Carthagena, under the sentence of slavery. The petition was referred to a committee, who reported the facts of the case, as shown by the petitioners, and submitted a resolution, that the President adopt immediate means of obtaining the liberation of the petitioners, if he was satisfied that they were involuntarily drawn into the unlawful enterprize.

After much discussion, in which party feelings seemed to have no share, the resolution was lost by the vote of the Speaker.

<sup>1</sup> Journals of Congress,

An increase of duties on certain manufactures, ready-made clothing, and millinery, was rejected.

The recruiting service was suspended, but the sum of seven hundred and fifty thousand dollars was appropriated to fortifications.

The two Houses adjourned to the fourth Monday in November, after a session of five weeks, in the confident expectation that all difficulties with the British government were at an end; but the arrangement with its Minister proved but a gleam of sunshine. As soon as it was known in England, it was disavowed by the government as unauthorised by the instructions to that Minister. Mr. Canning then informed Mr. Pinkney of this disavowal, and read to him a copy of the instructions to Mr. Erskine to show that the instructions had been exceeded by Mr. Erskine. He subsequently<sup>1</sup> sent Mr. Pinkney the copy of an order in council issued for the purpose of preventing inconvenience or loss to the merchants of the United States who had engaged in commercial speculations on the faith of Mr. Erskine's engagements. Having read to Mr. Pinkney the instructions to Mr. Erskine, he forbears to enter into any explanation of the points in which they were exceeded, or to make any comment on the manner in which Mr. Erskine's communication may have been received by the American government, or upon the terms and spirit of Mr. Smith's share in the correspondence. They would more properly form a topic of communication from the Minister whom His Majesty has directed to proceed to America, not on any special mission, which Mr. Erskine was not authorised to promise, except on conditions not wholly obtained by him, but as successor to Mr. Erskine, who had been recalled.

<sup>1</sup> May 24th.

The order in council adverted to exempted from capture those vessels of the United States which were bound to any port in Holland declared, in April, to be in a state of blockade, and which may have undertaken the voyage on the faith of the arrangement made with Mr. Erskine.

In July, Mr. Erskine informed the Secretary of State that His Majesty had not confirmed the late provisional agreement he had made with the Government of the United States. He sent a copy of the order in council above referred to, and intimated a wish, on a more suitable occasion, to explain the grounds on which he had acted, according to what he believed to be the spirit of his instructions, for the purpose of showing that he had not purposely practised any deception on the United States.

On the ninth of August, Mr. Smith communicated to Mr. Erskine that Mr. Pinkney had just sent him a copy of a despatch from Mr. Erskine to his government, by which it appears, from his report of conversations with Mr. Madison and Mr. Smith —

First. That the American government was prepared, in the event of His Majesty's consent to withdraw his orders in council of January and November, 1807, to withdraw contemporaneously the interdiction of its harbors to ships-of-war, and all non-importation and non-intercourse acts as to Great Britain, leaving them in force as to France, and the powers acting under her decrees.

Second. That America was willing to renounce, during the present war, all trade with the enemies' colonies from which she was excluded during peace.

Third. Great Britain, for the purpose of securing the execution of the embargo, and the *bona fide* intention of

America to prevent her citizens from trading with France and the nations under her influence, was to be at liberty to capture all such American vessels as might be found attempting to trade with the ports of those powers; since without this security, the raising the embargo nominally with respect to Great Britain would in fact raise it with respect to all the world.

Mr. Smith then asks explanations as to these imputed conversations. He expresses surprise at the extraordinary pretensions set forth in this letter of instruction, and especially at the expectation that the United States would, as a preliminary, recognize conditions, "two of which were so manifestly irreconcilable to the dignity and interest of the United States." He says that, had Mr. Erskine communicated this letter *in extenso*, it would have been impossible for the President to have perceived in it the conciliatory disposition which had been professed, and which he had supposed to exist.

Mr. Erskine, in his reply, referring to the points in his reported conversations with three members of the American government,<sup>2</sup> says he will give the explanations asked for with candor.

He had, in his despatches of the third and fourth of December, represented Mr. Madison to have urged various arguments to prove that the United States had used all their efforts to persuade the French government to remove their unjust restrictions upon neutral commerce; and that recourse might have been had to more active measures than mere remonstrance, if Great Britain had not, in the mean time, issued her orders in council, before it was known whether the United States would acquiesce in the aggressions of France: that, having their neutral rights thus assailed both by France and

<sup>1</sup> June 14th.

<sup>2</sup> VII. State Papers, page 236.

Great Britain, the United States could not distinguish between them, and would be justified in declaring war against both, but for the difficulty of maintaining such an unequal contest: they might, however, at last, be driven to that alternative, unless one would relax its lawless restrictions, in which case they would side with that power against the other; and that a regard to the best interests of his country made him desirous of a good understanding with Great Britain. While he considered that Mr. Madison wished these sentiments conveyed by Mr. Erskine to his government, he did not consider him as giving any pledge beyond the repeal of the embargo.

As to the second point, he says that Mr. Gallatin had, in a conversation, suggested that the non-intercourse law, then likely to pass, might be considered as removing two important grounds of difference with Great Britain, since the non-importation act and the President's proclamation were applicable to her alone, but, by the non-intercourse act, both nations were placed on the same footing.

Mr. Gallatin also mentioned the probability of adjusting another important point in dispute, as he knew the United States intended to abandon the attempt to carry on, in war, a trade not allowed in peace, and to trust to be permitted by France to carry on such trade in peace, so as to entitle them to it in war. He presumed the trade meant by Mr. Gallatin was the *direct* trade from the colonies to the mother country, or to the ports of other belligerents, as the right to that trade had alone been questioned.

Such was the substance of the unofficial conversations held with Mr. Madison, Mr. Gallatin, and himself; but he admitted that he never received any assurance from the American government that it would pledge itself to adopt the conditions specified in Mr. Canning's instruc-

tions, as preliminaries, nor did he hold out such an expectation to His Majesty's government, but merely that the orders in council being withdrawn, the embargo would be taken off, as against England, and that there was every reason to expect that a satisfactory arrangement might be made upon the disputed points of colonial trade.

As to the third point, he never had any conversation with the members of the United States government relative to it, until his late negotiation, nor had ever mentioned it to His Majesty's government — it having been first mentioned to him in Mr. Canning's despatch of the twenty-third of January.

He feels it his duty to add that he found no reason to expect that any difficulties would occur as to the two first conditions, so far as they were in the power of the President; and there was no doubt that Congress would think it incumbent upon them to assert the rights of the United States against the countries adopting the decrees of France; but that, in the mean time, the President had no power to give the pledge required. He also had received assurances from Mr. Smith that a satisfactory arrangement could be made in a treaty, as to the second condition, but that it would form an article in which the pretensions of the two countries should be settled.

The third condition he admits Mr. Smith informed him could not be recognized by the President; but this he deemed unimportant, since no American citizen could prefer a complaint to his government on account of the capture of his vessel while engaged in a trade interdicted by the laws of his own country.

He concludes, for his own vindication, that, finding he could not obtain the recognitions in Mr. Canning's despatch of the twenty-third of January ("which formed

but *one part* of his instructions"), he considered it useless to lay before the government of the United States his entire instructions; but as he believed that the object of His Majesty's government could be obtained, and the spirit of his instructions be fully complied with, he had concluded the provisional agreement; but in His Majesty's disavowal, he had received a painful proof that in this belief he was mistaken.

Mr. Gallatin also addressed a letter<sup>1</sup> to Mr. Erskine, relative to the declarations<sup>2</sup> imputed to him, in which he admits he told Mr. Erskine that, on the withdrawal of the orders in council, the United States would continue their commercial restrictions towards France. This was to result from their own laws, and not be made the condition of the repeal of the orders in council.

He also denied that he had ever stated that any arrangement concerning the colonial trade would be made a condition for the withdrawal of the orders in council. He thought that if other points were adjusted, especially that of impressments, those respecting the colonial trade could be easily settled, and that the United States were disposed for the present to waive their claim to a direct trade between the colonies and the mother country.

This statement by Mr. Gallatin was agreed to by Mr. Erskine.

The explanations now given by Mr. Erskine, having every appearance of fairness and candor, are sufficient to vindicate the United States for their course in the arrangement with him, against the offensive charge made against them by his successor.

That successor, Mr. Francis James Jackson, arrived in the United States two months afterwards; and it soon appeared, from the temper manifested by both parties—

<sup>1</sup> August 13th.

<sup>2</sup> VII. State Papers, p. 242.

certainly by him — that there was no probability of a favorable result to the renewed negotiation. The American government was naturally very much dissatisfied with the rejection of the arrangement, which terminated the affair of the Chesapeake, and, by the promised revocation of the orders in council, restored to the country that commerce which was so desirable. The British government was not only dissatisfied that the terms of the arrangement fell short of their expectations, but their very sensitive pride was wounded at the ungracious and rather lofty tone in which the proffered reparation for the attack on the Chesapeake had been received. No allowance was made for the inadequacy of the satisfaction in declining to inflict any real punishment on the author of the outrage, and of the necessity felt by the President of showing to the world, and to his fellow-citizens, that he was aware of how much he was conceding to the love of peace.

The first open cause of complain was on the part of Jackson, that the negotiation should be in writing, which he affected to consider as unusual and as restrictive of his privileges; and when the similar requisition by Canning of Pinkney was referred to as a precedent, he drew a distinction between the beginning of a negotiation and one which was at its close, after an oral conference.

The American Secretary of State then complained of the disavowal of the arrangement, and that the requisite explanations had not been afforded ; in the course of which part of the correspondence, each party, in its desire to obtain some advantage with the public, especially the American public, assumed ground it subsequently found untenable.

Thus, Mr. Smith complained that the British government had disavowed an arrangement made with their

accredited Minister, and which the American government, in the confidence they had in his authority, had, on their part, at once carried into execution.

Mr. Jackson defended his government for its course on the ground that Mr. Erskine had violated his instructions. He said that the United States had not at first complained of the disavowal, as it was made under circumstances which could have led only to that result—plainly implying that the facts of British justification were known to the American government. He reminded Mr. Smith that Mr. Erskine had communicated to him the conditions specified in those instructions, and that others had been substituted by himself, which he and Mr. Erskine might have considered equivalent; but that the very substitution shows that the original conditions had been communicated to him and to the President. He then admitted that if Mr. Erskine had received two sets of instructions, the right of His Majesty might have been affected; but he solemnly affirmed that he had but one set,—that which was communicated.

Mr. Smith replied that his government had not complained of the disavowal before the reasons for it had been given, especially as they were confidently expected from Mr. Erskine's successor; and that, in their verbal conferences, he had repeatedly intimated the necessity of satisfactory explanations. The stress which Mr. Jackson had laid on the substitution of other terms for those first proposed, had excited his surprise. This circumstance could give no right to disavow the arrangement and refuse explanations, as nothing is more common than for a Minister to have graduated instructions — beginning with a higher demand, and that failing, to descend to a lower. What Mr. Erskine's instructions were, is a question between him and his government.

It is clear that he believed he had authority for what he did, as he then, and has since, declared. The declaration that he had but one set of instructions is now first known to the American government. *Had that fact been known, the arrangement would not have been made.*

Mr. Jackson, after saying<sup>1</sup> that it had not been supposed necessary to give an explanation that had been given before, adds, that he has no hesitation in informing Mr. Smith that the agreement made with Mr. Erskine was disavowed because it violated his instructions. He admits that it is common for Ministers to have a gradation of conditions; but this was unimportant, as Mr. Erskine had no such graduated instructions. He had but one, and the terms he was induced to accept had been substituted by Mr. Smith for those originally proposed.

Mr. Smith, in his reply,<sup>2</sup> says, "that he abstained from making any particular animadversions on several irrelevant and improper allusions in the Envoy's letter not at all comporting with the amicable disposition professed." He adverts to Mr. Jackson's repetition of a language implying a knowledge on the part of the American government that Mr. Erskine's instructions had not authorised the arrangement he had made. After the explicit declaration that the Government had no such knowledge, and that, with such knowledge, no such arrangement would have been made, "such insinuations are inadmissible in the intercourse of a foreign Minister with a government that understands what it owes to itself."

In a long letter from the British Envoy, he remarks that he had carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by him, and "that he should not think of uttering

<sup>1</sup> VII. State Papers, page 270.

<sup>2</sup> Ibid. page 276.

an insinuation where he was unable to substantiate a fact."

Mr. Smith then repeating his complaint, remarks<sup>1</sup> that finding Mr. Jackson had reiterated, and even aggravated the same gross insinuation, he is informed that no further communication from him will be received, and that this determination would be made known to his government.

From the preceding correspondence (which has been more fully stated because it formed, for some time, the chief grounds of party contest in the United States) neither party had any good cause for not renewing the negotiation. When the British Envoy informed Mr. Smith that Mr. Erskine had but one set of instructions, though different sets are common, without alleging that the American government had a knowledge of the real fact, he virtually acquitted that government of knowing Mr. Erskine's incompetency to make the arrangement. So, on the other hand, Mr. Smith admits the grounds of the disavowal to be valid, when he declares that if the communication then made had been made before, the American government would not have assented to the arrangement. But in truth parties were prevented from acting in a spirit of conciliation by their mutual disappointment—the British government from not obtaining as favorable terms as they had expected, and yet more, perhaps, from a sense of wounded pride; and lastly, by the influence of the opposition journals which brought the charge of collusion with Mr. Erskine against the American government, that Mr. Jackson was not desirous of discountenancing; and when that government properly decided that Mr. Jackson must either disavow this charge, indirectly insinuated by him, or be considered

<sup>1</sup> VII. State Papers, page 262.

as asserting it; and he declining the disclaimer, the Administration thought it due to their own consistency and dignity to refuse further conference with him.

Mr. Jackson,<sup>1</sup> through his Secretary of Legation, then expressed<sup>2</sup> to the Secretary of State his regret that the facts he had deemed necessary to state had been thought sufficient to break off the negotiation. He had not imagined that offence would be taken, as none certainly was intended, and that he had no alternative but to await the arrival of His Majesty's commands.

This note, as well as the rest of the Envoy's course, was any thing but ingenuous; for, supposing his language did not necessarily bear the construction put upon it by the American government, yet as it certainly admits that construction, it was his duty to be more explicit, and his refusal to be so might be regarded as a virtual admission of Mr. Smith's interpretation, and as throwing the responsibility of breaking off the negotiation on him. He succeeded, however, in affording materials to the Opposition, both in and out of Congress, for throwing the blame of the failure on the President and his Cabinet.

He also, through the same channel, asked for special passports, or safeguards, for himself and each individual of his family, as indispensable to their safety, in consequence of the insults he had received in the town of Hampton, and of the tendency of the newspapers to excite the people to violence.

Mr. Jackson gave a further cause of offence by a circular letter addressed to the British Consuls in the United States, in which he vindicates his own course in the recent negotiation; and though his language was entirely respectful to the American government, and he

<sup>1</sup> November 11th.

<sup>2</sup> VII. State Papers, page 284.

disclaimed all intention of giving offence, yet as the publication of his letter in the American papers was uncalled for, it was regarded as an appeal from the government to the people.<sup>1</sup>

Congress assembled, according to adjournment, a week earlier<sup>2</sup> than the time appointed by the Constitution. The next day the President delivered his annual message, which, by its contrast with the message in May, strikingly exhibits the change which a few months had brought about in the condition and prospects of the country, as well as in the temper and tone of feeling both of himself and those whom he addressed.

He begins by informing them of the refusal of the British government to abide by the agreement made by its Ministers, which, under the circumstances, was so little to have been expected. He had issued a proclamation reviving the non-intercourse law against Great Britain, and instructions had been sent from the Treasury Department to diminish, as far as practicable, the inconveniences arising from the change.

It had been hoped that the new Minister from Great Britain would have been charged with conciliatory propositions; but the hope had not been fulfilled. He had no authority to make explanations, or to offer new proposals, as to the orders in council; and, as to the case of the Chesapeake, to offer reparation only on terms which the United States had repeatedly declared to be inadmissible. His correspondence with the State Department would show how its features have been varied in its progress, and that he did not refrain from imputations which forbade any further communication with him. His government, which could not but be supposed to view his conduct in the same light, would be informed of the

<sup>1</sup> VII. State Papers, page 302.

<sup>2</sup> November 29th.

necessity of this step, and also that this government is ready to renew an intercourse through any other channel which may be substituted.

With France our relations continued in the same unfavorable state as before; and the course of some of the other belligerents had furnished serious cause of complaint.

He suggests that there should be some legislative provision against that "collusive prostitution" of the national flag by individuals, which had so much favored the real or pretended suspicions of the belligerents. Our relations with the Barbary coast, and with the Indians, continued to be pacific.

He briefly noticed the condition of the fortifications and of the navy. The state of the militia is again pressed on their notice.

By means of the money in the Treasury, the Government had met all its engagements without recurrence to loans; but, in the general suspension of foreign commerce, a deficiency in the ensuing year was to be expected.

In the state of our affairs with the nations at war, the Legislature would be again called upon to decide on the alternative expedients to be adopted. He had entire confidence that this duty would be met with a spirit worthy of the councils of the nation, and that its decision would be supported by every portion of the American people.

In conclusion, he congratulates the country on its interior prosperity — its health, its abundance, its extended enterprize; the growth and improvement of its manufactures; the natural consequence of the edicts of the belligerents, which are thus as impolitic as unjust — for all which blessings we should be devoutly grateful.

The correspondence between Mr. Smith and Mr. Jackson formed, as was to be expected, the leading topic of discussion during this session.

Mr. Giles, in the Senate, offered a series of resolutions, approving the course taken by the Administration, and charging, in very direct and harsh terms, the British Envoy with a premeditated insult to the United States, and affirming that his conduct had been both insolent and disingenuous. His resolutions were supported by speeches from himself and Mr. Milnor, of Pennsylvania.

But the Envoy was not without defenders, or at least apologists.

The resolutions of the Senate, where they had passed almost with unanimity, were very warmly contested in the House. The Federal party, without a single dissentient, insisted that Mr. Jackson had nowhere affirmed that the government of the United States knew of Mr. Erskine's incompetency to make the agreement, but had, from the first to the last, confined himself to the assertion of the facts, that the instructions given to him were communicated to Mr. Smith; that other conditions had been substituted by Mr. Smith, with Mr. Erskine's consent; and that these were the only instructions given to Mr. Erskine. The opposers of the resolutions on these grounds were Messrs. Potter, Dana, Gold, Emott, Tallmadge, Pitkin, Stanley, and Livermore.

They were also opposed by two members from North Carolina, Messrs. Stanford and Macon, on the ground that they were opposed to votes of approbation, and that the language of the resolutions was exceptionable. Mr. Macon attributed the disavowal to the repeal of the embargo, and stated that, before the debate, "he had not supposed there was a man in the nation who thought the Administration hostile to an amicable adjustment of

all our disputes with Great Britain, or who could read Mr. Jackson's first letter without feeling the insult offered in that."

The resolutions were supported by Messrs. M'Kee, Fisk, Milnor, Eppes, Poindexter, Rhea, Johnson, Alston, and Newton, who maintained that the British Envoy, when he asserted that the government of the United States asked for an explanation which they did not require, made an offensive insinuation against their fair dealing; but that if we acquit him of so intending, which is conceding much, it is impossible to excuse his persisting in language which he found did give offence, and ought to give offence, according to the sense in which it was understood by the American government, whether they interpreted his language rightly or not. If rightly, then he impeached both their veracity and fairness; if not rightly, then, by not saying so, he gave just cause of offence in that contemptuous pride which disdained to correct the error. By refusing to disclaim the offensive construction of his words, he virtually adopted it, and subjected himself to the charge of intentional disrespect.

The subject was debated for more than three weeks, and after repeated attempts by the minority to adjourn, recommit, or postpone the question, on each of which the ayes and noes were called, it was finally passed by seventy-two votes to forty-one.

If Mr. Jackson's conduct found defenders in the Congress of the United States, it was not likely to be condemned in England. Accordingly, in the conference between Mr. Pinkney and Lord Wellesley, who was now Secretary for Foreign Affairs, the latter expresses His Majesty's concern that the official communication of his Envoy should have been interrupted before he could, by his interposition, have manifested his amicable disposi-

tion : that the expression of the Envoy appearing exceptionable to the United States, the usual course, in such cases, is to make complaint, and to ask suitable redress, in which case he might have afforded adequate explanations : that, anxious to respect the wishes of a state in amity, he had directed Mr. Jackson's return to England ; but that he had not marked with his displeasure the conduct of a Minister whose integrity, zeal, and ability had been long known, and who did not appear to have committed any intentional offence against the government of the United States.

Thus terminated one of those truly insignificant diplomatic controversies to which the peace and welfare of nations are occasionally sacrificed, and which excited an interest in the United States proportionate to the consequences with which it seemed pregnant.

The course which the nation should pursue was sufficiently difficult and embarrassing.

Mr. Troup, of Georgia, at an early day<sup>1</sup> in the session, offered resolutions which were better suited to the wrongs done his country than to her ability to redress them. By these, the President was authorised to instruct the commanders of armed vessels of the United States to bring into port all British and French vessels bound to other ports than those within their respective dominions : to detain all French ships, with their cargoes, in the United States, to abide the order of the government : that an ad valorem duty be collected on all British products and manufactures : and on the payment of the duties authorised on British vessels, the President might grant licenses to such vessels to depart. The resolutions were, however, on Mr. Troup's motion, laid on the table, and more temperate measures were preferred.

<sup>1</sup> December 5th.

On the same day, Mr. M'Kim, of Maryland, moved an inquiry into the policy of prohibiting vessels of the United States from trading under foreign licenses.

Mr. Macon, as Chairman of the Committee of Foreign Relations, reported a bill respecting the commercial intercourse of the United States with Great Britain and France. It prohibits all British or French vessels, public or private, from entering any port of the United States; the importation of all goods from Great Britain or France was prohibited after the fifteenth of April, unless imported directly from those countries; and it provided for the discontinuance of these prohibitions whenever those countries shall cease to violate neutral commerce.

This bill was opposed by the Federal party as too strong a measure, and by some of the Republicans as not strong enough.

While this subject was under discussion in Committee of the Whole, Mr. Burwell, of Virginia, thinking that further commercial restrictions would be unavailing, offered a resolution to employ the public ships in convoying the vessels of the United States to countries not having edicts or decrees against neutral commerce; and the owners and crews of merchant-vessels to be permitted to associate and arm for their defence.

This resolution was referred to a select committee, by the large majority of one hundred and sixty votes to eighteen — plainly indicating the disposition of Congress to resort to a more active defence of the nation's rights on the ocean.

It was subsequently modified and discussed, as well as the proposition to prohibit trading under foreign licenses; but there was no final action on either; they both, as well as Mr. Troup's resolutions, being suffered to lie on the table, or were silently abandoned in Committee of

the Whole—the majority of the House contenting themselves with the resistance offered by Mr. Macon's bill, and which, by the encouragement it offered to American shipping, was called the American Navigation Act, which, after much opposition and debate, passed about the end of January by seventy-three votes to fifty-two—the minority being composed of Federalists, and of those Republicans who were in favor of stronger measures.

In the Senate, it encountered opposition of the same twofold character. On the motion of Mr. Smith, of Maryland, the bill was amended so as to offer no resistance to the belligerents except the exclusion of their vessels from the United States, and it was opposed by Henry Clay, who had, by Executive appointment, a few days before again taken his seat in the Senate. He said: "Your whole circle of commercial restrictions, including the non-importation, embargo, and non-exportation acts, had in view an opposition to the offensive measures of the belligerents, so justly complained of by us. They presented *resistance*—the peaceful resistance of the law. When this is abandoned without, I am for resistance by the sword."

"No man in the nation wants peace more than I; but I prefer the troubled ocean of war, demanded by the honor and independence of the country, with all its calamities and desolation, to the tranquil and putrescent pool of ignominious peace."

He then added, with his characteristic frankness, that of the two belligerents, he would prefer going to war with Great Britain, on account of her impressment of American seamen.

Thus amended, the bill passed with only seven dissentients.

When the bill, as amended in the Senate, was returned

to the House, further amendments were proposed by Mr. Eppes, allowing merchantmen to arm, providing convoys, which, with the amendments, were referred to a select committee, who made a report disagreeing to the Senate's amendment.<sup>1</sup>

On a conference between the two Houses, both of them adhering to their previous course, the bill was lost.

But a second bill was introduced by Mr. Macon, which provided that in case either Great Britain or France, before the third of March next, should revoke its edicts, so as no longer to violate neutral commerce, the President should, by proclamation, declare the facts; and if the other nation did not, within three months thereafter, revoke its edicts in like manner, the act interdicting commercial intercourse shall be revived against such nation.

Mr. Johnson, of Kentucky, proposed, by way of amendment,<sup>2</sup> an addition of fifty per cent. on the duties on goods imported from France or Great Britain, which, after much opposition, was carried by fifty-nine votes to twenty-two. But this was opposed in the Senate, which, by way of compromise, proposed to give convoys to the merchant-ships. Both Houses adhering to their several measures, a second conference took place, in consequence of which, both Houses receded from the ground they had previously occupied, and the bill became a law in the same form in which it had first passed in the House of Representatives.

Thus the only resistance to flagrant violations of right were retaliated simply by a refusal to trade with the wrong-doer; and even this feeble measure was not

<sup>1</sup> See Index to Annals of Congress, for the different steps in Macon's bill, eleventh Congress, page 46.

<sup>2</sup> Annals of Congress, page 1887.

to take effect until another wrong-doer had formally consented to do us justice.

While so little was done in the way of pacific resistance to the lawless course of European belligerents, no addition to the means of national defence looked to the alternative of war. On the contrary, it was voted, on the proposition of Mr. Randolph, who had taken his seat in the latter part of the session, that it was expedient to reduce both the army and navy. The President's recommendation to revive the law authorising a call of one hundred thousand militia, and the enlistment of twenty thousand volunteers, the organization of the militia, and the power of calling into service any part of the navy not then employed, had no other effect than to occasion bills which were never enacted into laws.

A sense of the nation's wrongs from abroad had little influence in softening party animosities at home, and private malice, profiting by this circumstance, charged Mr. Gallatin, in a Virginia newspaper, with having used the public funds for the purposes of private speculation; that he had contrived sales of the public lands for the sake of making advantageous purchases; and that he had, against the wishes of the President, drained the country of specie to place it in the hands of one of the Bonapartes.

An inquiry into these charges was proposed by Mr. Gardenier, who at the same time stated his impression that the charges were unfounded. A large majority was opposed to a postponement of the subject, and the Secretary was promptly and warmly defended by Mr. Burwell, of Virginia, whose integrity and independence every one acknowledged. He was supported by Messrs. M'Kim, Gholson, Taylor of South Carolina, Johnson, and others. Mr. Macon, who bore testimony to the Secretary's merit

and probity, was, however, in favor of an investigation, as were several others. The question of instituting an inquiry was rejected by one hundred and six votes to seven. As it was well known that there was a misunderstanding between the Secretary of State and Mr. Gallatin, public rumor was not slow to ascribe this attack on Mr. Gallatin's integrity to Mr. Smith, as was indeed mentioned by Mr. Burwell; but it does not appear upon what evidence the imputation was made.

There was an attempt, at this session, to re-establish the Bank of the United States, which the Secretary of the Treasury was understood to favor, on account of the facilities it afforded to the Treasury Department both in the collection and disbursement of the revenue.

A bill to continue the Bank for twenty years was introduced, and the subject was referred to the Committee of the Whole; but, after some discussion, the refusal of leave to the Committee to sit again showed that a majority, upon the ground either of expediency or constitutionality, was opposed to the measure.

The recent obstacles to the foreign commerce of the United States had given a great spring to their manufactures, and had secured to this branch of industry an unwonted popularity. Under this influence, a resolution of the House had instructed the Secretary of the Treasury to prepare a detailed report of the extent and condition of all the domestic manufactures. The report made in pursuance of this resolution was communicated on the nineteenth day of April.<sup>1</sup> The report having considered the want of capital in the United States to be the chief obstacle to their success in manufactures, suggests, by way of remedy, the creation of a circulating stock of from five to twenty millions of dollars, bearing

<sup>1</sup> Annals of eleventh Congress, page 2224.

a low interest, to be lent to manufacturers on principles similar to those formerly adopted by the States of New York and Pennsylvania.

Among the modes of defence against the superior naval power to which the United States would be exposed, in the event of war, were plans of submarine explosion. One of these, suggested by Robert Fulton, was so favorably received by Congress, that an appropriation of five thousand dollars was made to enable him to make experiments on his plan of *torpedoes*. It is not unworthy of notice that this project, thus patronized by the Legislature, proved as visionary as his application of steam to navigation, already in partial operation, proved practical and useful.

One of the last acts of the session was a joint resolution of both Houses, the most prominent portion of which may be ranked under "the fears of the brave, and the follies of the wise." It originated in the Senate, and was introduced to the notice of the House by Mr. Macon,<sup>1</sup> who "considered the vote on that question as deciding whether or not we were to have members of the *Legion of Honor* in this country." The resolution proposed an amendment to the Constitution, by which any citizen of the United States accepting any title of nobility or honor, or accepting, without the consent of Congress, any present, pension, office, or emolument, from any foreign power, shall cease to be a citizen, and be incapable of holding any office of the United States.

Though this resolution passed the House with only three dissentients, it was not adopted by a sufficient number of States to become a part of the Federal Constitution. Its seeming moral influence has, however,

<sup>1</sup> Annals of the eleventh Congress, page 2050.

been considerable, as indicating the public sentiment of the American people.

On the last day of the session, the select committee to whom an inquiry into the conduct of Brigadier-general Wilkinson had been referred some weeks before, made their report.

This inquiry had been proposed by Mr. Pearson, on the twenty-first of March, and was directed to the four following points: First. Wilkinson's corruptly receiving money from the Spanish government, or its agents. Second. His connection with the agents of Spain in a project to dismember the United States. Third. His connection with Aaron Burr in similar schemes. Fourth. His conduct as Brigadier-general of the army.

The subject gave rise to much discussion principally as to the powers of the House, but the inquiry was finally adopted, on the fourth of April, by eighty votes to twenty-nine.

As to the first charge, the report exhibits a great mass of evidence to show that Wilkinson had received large sums of money from Spanish agents, which some of the witnesses considered to be proof that he was a regular pensioner of Spain. A part of the facts was admitted by Wilkinson, but he at the same time said that the money he received was on account of a mercantile speculation.

On the second charge, the committee report a good deal of circumstantial evidence, which makes the accusation probable; but, according to the principal witness, Wilkinson justified his course by the condition of Kentucky, and the doubtful state of the Union. He subsequently declared that he would thenceforth abandon his Spanish connections.

On the third charge, it appeared that there was an

intimacy between Burr and Wilkinson when Burr first went to the West; but there was no proof that he supported Burr in any measure hostile to the United States.

On the fourth charge, there was a great mass of testimony to show that Wilkinson made unwarranted claims and charges in his public accounts, which the Treasury Department refused to sanction: that he was in the habit of drawing his money in advance. It further appeared that some of the papers connected with his accounts had been taken away by him, and the committee having issued a *subpoena duces tecum* for those papers, though he professed to have sent them, he had retained a part.

The question of reading the report was warmly discussed, and finally carried by fifty-eight votes to thirty-two; but after some progress, the further reading, on account of the great length of the document, was dispensed with; and this subject, which had involved so much both of party and personal feeling, was postponed until the next session.

On the first of May terminated a session of more than five months, the measures, or rather the failures of which to act, and glaring inefficiency, are humiliating to the pride of the nation; but, in truth, the members of Congress consisted of three distinct parties — one, the friends of the Administration, who felt for their country's rights and honor as every citizen who reads this narrative must now feel; another party, also friends of the Administration, who, not prepared to encounter the perils and burdens of war, avoided every measure likely to provoke it; and lastly, the Federalists, who, separating the country from those who ruled it, and whom they suspected of a subserviency to France, and of an undue hostility to

England, then contending, as they believed, for the independence of Europe, joined with the more timid and cautious part of the Republicans, and thus defeated every measure which aimed to maintain the rights and honor of the nation.

It appeared, soon after the rising of Congress, that the act interdicting commercial intercourse with the United States to Great Britain and France, feeble as it was in resisting belligerent aggression, was not wholly inoperative, as may be seen by the correspondence between General Armstrong and the French Minister, Count Champagny, to which it will be proper now to advert.

In a letter from Champagny to Armstrong, as far back as the twenty-second of August, 1809,<sup>1</sup> after a vehement denunciation of the illegal blockades of Great Britain, which he contrasts with the forbearance of France, he says: “Let England revoke her declarations of blockade against France, then France will revoke her decrees of blockade against England. Let England revoke her orders in council of the eleventh of November, 1807, the decree of Milan will fall of itself.”

But after the non-intercourse act of the first of March, 1809, which forbids French vessels from entering the ports of the United States, under the penalty of confiscation, France made that act the pretext for the seizure and sale of all American vessels which had entered the ports of France after the twentieth of May, 1809 — the proceeds of the sales to be deposited in the *Caisse d'Amortissement*. Thus the penalty imposed on a French vessel for violating a municipal law of the United States, after due notice, was the pretended justification of confiscating American vessels which had violated no French regulation whatever. To make the outrage the

<sup>1</sup> VII. State Papers, page 298.

greater, not a single French vessel had incurred the penalty for violating the non-intercourse law, while more than a hundred American vessels and their cargoes were seized and sold under this iniquitous act, called the ‘Rambouillet decree.’”<sup>1</sup>

After this gross outrage, which has no prototype, except in *Æsop’s fable of the Wolf and the Lamb*, the French government deigns to use the tone of conciliation. Count Champagny — now become the Duke de Cadore — writes to General Armstrong;<sup>2</sup> that the Emperor had applauded the embargo, though it caused him the loss of his West India colonies: that the act of the first of March substituted for the embargo an act which denounced confiscation against the French vessels entering the United States, which justified France, by way of reprisal, in sequestering all American vessels in France: that Congress had now retraced their steps, by again opening their ports to French commerce, and permitting their own vessels to trade to France. Under this state of things, he was authorised to declare that the Berlin and Milan decrees were revoked, and would cease to have effect after the first of November — it being understood that, in consequence of this declaration, either the English would revoke their orders in council, and renounce the new principles of blockade, or that the United States would cause their rights to be respected by the English.

He then gives utterance to an effusion out of the ordinary course of diplomatic communications. “It is,” he said, “with the most particular satisfaction, sir, that I make known to you this determination of the Emperor. His Majesty loves the Americans. Their prosperity

<sup>1</sup> Dated May 4th, 1810; VII. State Papers, page 467.

<sup>2</sup> August 5th, 1810.

and their commerce are within the scope of his policy. The independence of America is one of the principal titles of glory to France. Since that epoch, the Emperor is pleased in aggrandizing the United States; and, under all circumstances, that which can contribute to the independence, to the prosperity, and the liberty of the Americans, the Emperor will consider as conformable with the interests of his empire.”<sup>1</sup>

As soon as the American government was informed of this declaration of the French government, the President issued a proclamation, which, citing the revocation of the French decrees, declared that the restrictions imposed by the act of Congress on the commerce of France and her dependencies should be thenceforth discontinued.

On receiving the proclamation, the French Emperor ordered that the causes depending in the Council of Prizes made after the first of November, and those which should be thereafter brought before it, should not be judged according to the principles of the Berlin and Milan decrees, but should remain suspended.<sup>2</sup> The hopes, however, to which this intelligence gave rise, proved as delusive as those raised by the Erskine arrangement.

Let us now turn to the relations with the British government. Mr. Pinkney, on being informed of the declared revocation of the Berlin and Milan decrees,<sup>3</sup> lost no time in communicating the fact to Lord Wellesley, and says, “He takes it for granted that the revocation of the British orders in council of January and November, 1807, and April, 1809, and all other orders

<sup>1</sup> VII. State Papers, page 470.

<sup>2</sup> VIII. State Papers, page 22.

<sup>3</sup> August 25th, 1810; VII. State Papers, page 444.

dependent on them, would follow of course." To which the British Minister replied, that such revocation would be made whenever the repeal of the French decrees had "actually taken effect."

While the United States were waiting to see whether the European belligerents would, after the first of November, rescind their lawless edicts against the commerce of the United States, an extraordinary occasion for the exercise of the Executive power was presented on this side of the Atlantic.

The Emperor of France having brought all Europe, except Great Britain, to a state of dependence or submission, not satisfied with the control he had long exercised over Spain, by which all the tribute she could draw from her American colonies was forced into his coffers, was about to make her and her wide-spread domain, in name as well as in fact, dependencies of France. This was, in general, a signal for those colonies to assert their independence, and among them were the inhabitants of West Florida, who, in September, declared themselves independent, and proposed to be annexed to the United States. But inasmuch as a part of the territory they occupied—that which lies between the Mississippi and the Perdido—was considered by the United States to be comprehended in the Louisiana treaty, the Administration refused to countenance the revolutionary measures of the Floridians, but decided on taking possession of the territory, and retaining it until the title should be settled by negotiation. With this view, the President issued a proclamation which authorised Claiborne, the Governor of the Orleans Territory, to take possession of the Territory in question. He was, however, instructed to use no force, and to possess himself of no place in which resistance was offered by the authorities of Spain.

Hence the Spanish commanding officer at Mobile having refused to surrender it, he was suffered to retain possession.

Congress assembled, in conformity with the Constitution, on the first Monday in December; and on the same day, the President delivered his annual message.

He adverts to the late act of Congress, by which Great Britain and France had been invited to discontinue their edicts against the commerce of the United States, and to the modes in which the act had been severally received by those governments, without expressing his anticipation of the result. He mentions also the vexations experienced by American commerce from licentious cruisers under the Danish flag, and his own occupation of the territory west of the Perdido, which found its justification in the rights and interests of the United States, and the subversion of the Spanish authority.

After noticing the general prosperity of the country, its thriving agriculture, and the extension of its manufactures, he cautiously submits to the consideration of Congress the expediency of affording to the last a temporary protection. But in favor of encouraging navigation, and placing it on a level of competition with foreign vessels, he speaks more decidedly.

He invites their attention to the establishment of a seminary of learning by the national Legislature, within the limits of its exclusive jurisdiction, on the general and political benefits of which he earnestly comments. The African slave-trade is strongly denounced.

The state of the fortifications, the manufacture of cannon and small arms, the preparations for arming the militia, the corps of engineers, and the military, are successively brought to the notice of the Legislature.

The receipts into the Treasury during the year have

been more than eight and a half millions of dollars, and have exceeded the current expenses of the government. Three millions and three-quarters of the public debt had been discharged by the aid of a loan of two millions and three-quarters.

One of the first questions discussed in the Senate was the occupation of West Florida. According to the ordinary tendency of party warfare, the course pursued by the Administration was sufficient to induce the Opposition to condemn that course, and to insist both that the President had exceeded his authority in issuing the proclamation, and that the title to the territory in question was in Spain.

Mr. Giles having, at an early day, introduced a bill<sup>1</sup> declaring the laws then in force in the Orleans Territory to extend to the Perdido, with special provisions in furtherance of that object, the merits of the question were fully discussed by Messrs. Pope and Clay, in support of the bill (in the absence of Mr. Giles), and by Messrs. Horsey and Pickering, in the opposition.

In the course of the discussion, Mr. Pickering, by way of strengthening his argument in favor of the title of Spain, cited a letter from Talleyrand, then in the Ministry of France, to General Armstrong, which had some years before been read in the House when Congress sat with closed doors, in which letter that Minister had asserted that France had conveyed no land to the United States east of the Mississippi. The reference made by Mr. Pickering was reproved<sup>2</sup> by Mr. Smith, of Maryland, as a violation of the injunction of secrecy; and Mr. Clay offered a resolution, affirming that the reading of the papers by the Senator from Massachusetts was, under the circumstances, "a palpable violation of the

<sup>1</sup> Annals of eleventh Congress, page 25.

<sup>2</sup> Ibid. page 66.

rules of the Senate." The next day the resolution was discussed with some warmth, and the word "palpable" having been omitted with the consent of the mover, the resolution passed by twenty votes to seven.

The inhabitants of the Territory of New Orleans, anxious to be received as a State into the Union, had petitioned Congress for their admission, and a bill was introduced for that purpose by the select committee to whom the subject had been referred. The measure was strenuously resisted by the Federal party as not within the meaning of that clause of the Constitution which provides for the admission of new States.

Mr. Quincy took the lead in opposition to the bill, and in the warmth of his feelings declared that it affected the liberties and rights of the whole people of the United States, would justify a revolution, and in no great length of time might produce it. He declared it to be his deliberate opinion that if this bill passed, the bonds of the Union were virtually dissolved; that the States which compose it were free from their moral obligations; and that as it would be the right, so it would be the duty, of some to prepare definitely for a separation, "amicably if they can, violently if they must." The member was here called to order, and the Speaker having decided Mr. Quincy's last remarks to have been out of order, on an appeal to the House, the Speaker's decision was reversed by fifty-six votes to fifty-three. He then proceeded with an astute and elaborate argument to prove that the admission of the Territory into the Union was unconstitutional. The bill finally passed by a large majority.

On this occasion Mr. Quincy faithfully represented the sentiments of his constituents. The politicians of New England, and especially of their most populous and

weighty portion, Massachusetts, had long felt that their relative influence in the Confederacy would be gradually lessened by the progress of population to the West; and this feeling was manifested in the Convention which formed the Federal Constitution.<sup>1</sup> The same feeling made them, at first, opposed to the acquisition of Louisiana, and subsequently to the admission of any portion of it into the Union. This local jealousy continued until the slave question made a division of political sentiment in the Western as well as the Eastern States, which overrode every other.

As the charter of the Bank of the United States expired on the fourth of March, 1811, its stockholders and friends made an effort, at this session, to obtain a renewal of the charter. Mr. Crawford, Senator from Georgia, as Chairman of the committee to whom the subject was referred, applied to the Secretary of the Treasury for his opinion on the utility of the Bank; to which Mr. Gallatin replied at length in favor of the renewal of its charter, and superadded his opinion of its constitutionality.

This subject gave rise to much debate in both Houses, especially in the Senate, and the arguments then advanced for and against the institution substantially anticipated all that has been since urged on the same copious and interesting topic. In the Senate, the advocates for the renewal were the two members from Massachusetts, Messrs. Lloyd and Pickering, Taylor of South Carolina, Brant of Virginia, and Pope of Kentucky. Their opponents were Messrs. Giles, Smith of Maryland, Henry Clay, and the Senators from Tennessee, Messrs. Anderson and Whitesides. On taking the decisive question of striking out the first section, the Senate being equally divided, it was decided in the affirmative by the Vice-

<sup>1</sup> See ante, Vol. I., page 364.

President,<sup>1</sup> the venerable Clinton, who assigned, as the ground of his vote, the want of power in Congress to establish a national Bank.<sup>2</sup> In the House of Representatives, the bill for a renewal of the charter was indefinitely postponed by a single vote.<sup>3</sup>

Let us now recur to the correspondence in London between Mr. Pinkney and Lord Wellesley.

From the time that Lord Wellesley had assured the American Envoy that the orders in council would be revoked as soon as the British government was satisfied that the Berlin and Milan decrees had ceased to exist, Mr. Pinkney had urged the prospective revocation of the orders, but without effect. On the tenth of December, he addressed a long letter to Lord Wellesley on the same subject,<sup>4</sup> with the seeming purpose of bringing the question to a conclusion. He endeavors to show that the evidence of the revocation of the French decrees ought to be satisfactory to the British government: and he refers to the practice of that government in similar cases. He insists that, according to a fair, and even necessary construction of the decree of repeal, the condition con-

<sup>1</sup> Annals of eleventh Congress, page 346.

<sup>2</sup> It deserves to be remarked, that the Legislature of Virginia had instructed her Senators, Messrs. Giles and Brent, to vote against the renewal, and that while Giles voted in conformity with his instructions, yet as he denied, in his speech, the power of the Legislature to instruct its Senators, and wrote a pamphlet in support of the same doctrine, he gave more offence to the Legislature and to his constituents generally than Brent, who voted in direct opposition to his instructions; and it was believed by many that if Brent had not died soon afterwards, the Legislature would have manifested its greater forgiveness of his delinquency over that of his colleague, by electing him Governor of the State. It would thus seem that communities, no less than individuals, sometimes attach more importance to the language than to the acts of their dependants."

<sup>3</sup> Annals of eleventh Congress, page 826.

<sup>4</sup> Ibid. page 1211.

sidered by Great Britain to be annexed to the decree is not precedent, which view he enforces at great length, and with his wonted ability. He then refers to particular cases in which French cruisers had abstained from acting under the decrees which they considered to be no longer in force. In conclusion, he protests against the course of Great Britain in postponing justice to the United States until it was first rendered by her enemy.

On the twenty-ninth of December, Lord Wellesley replied to Mr. Pinkney. After regretting that Mr. Pinkney should have introduced topics tending to interrupt a conciliatory spirit between the two nations, he proceeds to the question of the repeal of the French deccrees. He says that M. Champagny's letter to General Armstrong does not contain such a notification of the repeal as would have justified the British government in rescinding its orders. That letter, after declaring that the French decrees will cease to be in force after the first of November, 1810, adds, "it being understood that, in consequence of this declaration, the English shall revoke their orders in council, and renounce the new principles of blockade which they have attempted to establish." He infers that the revocation of the French decrees depended upon Great Britain revoking her orders before that day; and that a further condition seemed to be contained in the letter, "that America should resent any refusal of Great Britain to renounce the new principles of blockade, and to revoke the orders in council."

According to Mr. Pinkney's explanation, the American government understands the French Minister's letter as announcing an absolute repeal, which, however, is not to continue in force unless the British government, within a reasonable time after the first of November, shall fulfil the two conditions. Had the French government required

the repeal of the orders in council, he should have advised their repeal; but they further require a renunciation of the principles of blockade; and he understands Mr. Pinkney to require a revocation of the blockade of May, 1806. Those principles of blockade he declares to be a part of the established law of nations, and on them depend the most valued rights and interests of Great Britain. He trusts that the repeal of the French decrees under such a condition will not be considered to warrant America in enforcing her non-intercourse act against Great Britain. He concludes with affirming that the British government is anxious to revoke its orders in council, as soon as the French decrees are effectually repealed without conditions injurious to the maritime rights and honor of the United Kingdom."

Mr. Pinkney rejoins on the twenty-eighth of January. He says that the topics introduced into his letter of the tenth of December were intimately connected with its principal subject, and if not acceptable to his lordship, the fault was not his. It was scarcely possible to speak with more moderation of a long list of invasions of the rights of the United States. He dwells, however, on the conciliatory tone which he had used in speaking of those wrongs under so many discouragements. It was not his practice to seek irritating discussions, but he felt no desire to avoid them, whatever might be their tendency, when necessary for vindicating the rights of his country.

He admits that the American government has required the annulment of the blockade of May, 1806, and that other similar blockades would be discontinued; but he sees not by what process of reasoning Lord Wellesley had concluded that, by this requisition, the United States have become the champion of the Berlin decree.

If such had been the intention of that government, it would have said so in explicit terms, and not have left it to be deduced by ingenious inferences.

The principles of blockade maintained by the American government, he said, it has already sufficiently explained; and he particularly refers to an official note from Mr. Murray to Mr. Madison, of the twelfth of April, 1804, for a clear exposition of the law of blockade as maintained by England herself, in accordance with the doctrines asserted by the United States. He then gives a summary of those doctrines founded on principles of national law, reason, and equity.

"England," he affirmed, "will ultimately accede to those principles, and though now disinclined to acknowledge them, there can be no reason for declining to repeal what every principle disavows, and which must be repealed at last. As to such British blockades as the United States desire you to relinquish, it is no reason for adhering to *them* that France desires you to relinquish others, and thus make us responsible for the exorbitance of their demands. If, when you have done justice to the United States, your enemy calls upon you to go further, what shall prevent your refusing?

He remonstrates against the grounds taken by Great Britain to justify her orders in council with unanswerable force. As those orders professed to be a reluctant retaliation of the French decrees, he asks, Why is it that those orders have outlived the French decrees? Supposing the repeal is not to remain in force, can the safety and honor of the British nation demand that those orders shall continue to outrage the public law of the world, and sport with the undisputed rights of neutral commerce, after the pretext which was first invented for them is gone?

“Whether the Berlin decree exists or not, the justification of your orders in council is equally necessary. The British government issued them when that decree was nothing but a shadow. It is now revoked by your own admission, but you look for its reappearance, and you make your own expectations equivalent to the decree itself.

He knows not what the British government requires with a view to its *safety* and *honor*, as an inducement to rescind these orders. It cannot imagine that such a system will ripen into law. It must be relinquished, sooner or later, as one of those violent experiments for which time can do nothing, and to which submission will be hoped in vain.

“When one foundation of this mischievous system is removed, another is industriously sought. When realities cannot be found, possibilities supply their places, and what was first said to be retaliation for actual injury, absurdly becomes, at last, retaliation for *apprehended* injury.”

He disclaims the admission that the French decrees afford any justification for the British orders; but those who maintained that doctrine ought surely to suffer them to sink together.

He says that he is not aware of any edicts of France which now affect the commerce of the United States on the seas. If they are injured by any of the acts of France which rest on territorial sovereignty, it is for them alone to seek redress.

Lord Wellesley, in his answer of the eleventh of February, says that he is directed to abstain from any argument or expression which might tend to interrupt the good understanding between the two countries.

He says that no statement made by Mr. Pinkney

affects the principles which he (Lord Wellesley) had previously communicated. Great Britain has always insisted on her right of self-defence against the commercial warfare pursued by France, and that the incidental operation of her measures on the commerce of the United States, though to be lamented, must be ascribed to the violence and injustice of her enemy.

Admitting that France had suspended her decrees, or even repealed them, "she has not relinquished the conditions expressly declared in the letter of the French Minister of the fifth of August, 1810. She requires Great Britain not only to repeal the orders in council, but to renounce the principles of blockade. If she will not submit to these terms, it is intimated that France requires America to enforce them. To this Great Britain cannot accede, as it would be a surrender of her most important maritime rights and interests." He avers that the blockades previous to the Berlin decree were strictly conformable to the law of nations. Those established by orders in council rest on the different ground of retaliation. The Prince Regent cannot consent to blend the discussion relative to the orders in council with that of the general principles of blockade; but this is not meant to apply to any particular blockade which may appear to the United States exceptionable.

The American Envoy, who defended the rights of his country with so much zeal, spirit, and such irresistible logic, finding that the appointment of a full Minister to the United States was still delayed, demanded, in pursuance of his instructions, an audience of leave, and refused, in the mean time, to attend a general reception of the foreign Ministers at court. But when he was subsequently informed that a Minister Plenipotentiary, Mr.

Foster,<sup>1</sup> had been appointed to the United States, he suspended his decision of returning home. After, however, he ascertained that the blockade of May was to be unrepealed, and the other questions in dispute to remain unsettled, he renewed his purpose, had his audience of leave on the twenty-eighth of February, and left England in May, leaving his Secretary of Legation, John Spear Smith, charged with the affairs of the United States.

In the mean time, the intelligence received from France, after the President's message, changed the aspect of the relations between that country and the United States. It appeared, from the despatches of Jonathan Russel, whom General Armstrong, on his return home, had left *Chargé d'Affaires*, that after the first of November, when the Berlin and Milan decrees were to cease, an American vessel (the New Orleans Packet) had been seized under those decrees, and that the schooner Friendship had been sequestered.

A remonstrance<sup>2</sup> was made by Russel to the Duke de Cadore against the seizure of the New Orleans Packet, to which no answer had been returned; but it appeared by a letter from an American Vice-Consul, that the Minister of Justice, the Duke of Massa, had written to the President of the Tribunal of Prizes that, in consequence of the President's proclamation of the first of November, captures of American vessels made after that day should not be judged according to the Berlin and Milan decrees, and those to be made thereafter were to be sus-

<sup>1</sup> Lord Wellesley, in announcing the appointment of Mr. Foster, stated that the appointment of a Minister had been delayed first, by an earnest desire of rendering it satisfactory to the United States, and "afterwards by the situation of His Majesty's government," alluding to the King's incapacity for business.

<sup>2</sup> Annals of eleventh Congress, pages 1246-7.

pended until the second of November, when the Americans having fulfilled their engagements to cause their rights to be respected, the said captures should be null.

A letter of similar purport from the Duke of Gaete to the Director-general of the customs, applied to all vessels which have entered the ports of France since the first of November.

It was owing to this intelligence<sup>1</sup> that a bill introduced by Mr. Eppes, as Chairman of the Committee of Foreign Relations, in January, to enforce the non-intercourse law against Great Britain, was not acted on during several weeks; and this consideration was avowed by the Chairman when, on the second of February, he proposed to recommit the bill, and to suspend the non-intercourse law "until the doubts hanging over our foreign relations were dissipated." From that time it was vehemently opposed by the Federalists and their Republican allies.

In discussing the question of recommitting the bill, Mr. Randolph, by way of amendment, proposed to repeal the bill which interdicted the commercial intercourse between Great Britain and the United States, on the ground that the French decrees were not revoked. Believing that our non-intercourse laws had been inefficient, he was for repealing them. He was sustained by Mr. Mitchell, of New York, who, taking a review of the measures resorted to by the country, was for allowing the citizens to make adventures at their own option and risk. Messrs. Wright, of Maryland, and Fisk, of Vermont, were for executing the act of Congress in good faith. Mr. Gardenier insisted that we should not count from the first of November, even on the principles on which we professed to act, as the French edicts were not then

<sup>1</sup> Annals of eleventh Congress, page 863.

repealed. Mr. Burwell, without committing himself as to his ulterior course, was in favor of recommitment. Mr. Quincy supported Mr. Randolph's amendment. Mr. Cheves thought that we were bound, in good faith, to admit that the French decrees were revoked. Mr. Wheaton was against interdicting the commerce with Great Britain, even if the Berlin and Milan decrees were revoked, unless other injuries by France were repaired. Mr. Rhea, of Tennessee, insisted we had given a pledge to France which ought to be redeemed. Mr. Randolph denied that there was any pledge, except to ourselves. His proposition was negatived<sup>1</sup> by sixty-seven votes to forty-five, and the bill was recommitted by eighty-two votes to nine.

Mr. Eppes having introduced a supplementary bill, to exempt from forfeiture the ships and merchandize of citizens of the United States which had left any British port before the second of February, Mr. Emott, of New York, said that the bill did not go far enough: he proposed to exempt all vessels and all merchandize from the penalties of the act, which he supported at length and with great ability. He maintained that the Berlin and Milan decrees were not revoked, and he exposed the absurdity of Napoleon's reasons for reprisal under the Rambouillet decree. Mr. Eppes replied to Mr. Emott, and defended the Executive from the charge of favoring France. He was for executing our plighted faith to that government, as we had done towards England in the Erskine arrangement. Mr. Sturges advocated a repeal of the act of May.

The preceding brief sketch may suggest the lively and general interest which this subject excited, and which seemed still to augment in the subsequent steps of the

<sup>1</sup> Annals of eleventh Congress, page 898.

discussion. The members opposed to the measure of non-intercourse, seeing that the majority were bent on passing it, endeavoured to defeat them by motions to adjourn, amendments, and other modes of putting off the decision of a question. The majority, in defence of their rights, resorted to the previous question, which they maintained precluded all further amendments or debate. It was, however, insisted by the opponents of the bill, that the merits of the main question might be discussed, notwithstanding the previous question, and so the Speaker decided, on the authority of a recent precedent in the House; but from his decision an appeal was taken, and the majority, conceiving themselves, under the circumstances, warranted in disregarding the precedent, decided that the previous question, if carried, closed all further debate. Such is now the established rule of the House.

This fiery debate continued, with some intermissions, from the second of February to the twenty-eighth. During the discussion the sittings of the House were several times protracted long after midnight; and, on one occasion, the session (with and without a quorum) was extended to eighteen hours, during which time the House had the same presiding officer, Mr. Varnum, of Massachusetts. The bill finally passed about five o'clock in the morning of the twenty-eighth, by the large majority of sixty-four to twelve.

In this discussion, the opponents of the bill greatly exceeded its friends in ability as well as vehemence; but, in truth, the vacillating and insidious course of the French government had hardly left the supporters of the Administration any ground to stand upon. On the other hand, the obstinate adherence of the British government to its lawless edicts and its other unredressed wrongs against the United States, forbade their longer patient

endurance. It furnished no argument against their efforts at retaliation, towards that one of their oppressors which could be made to feel them, that the other was beyond their reach.

The debates during this session made it apparent that the attachments of the American people to England and France, though greatly diminished, still entered largely into their party feelings, and becoming the foundation of their mutual suspicions and criminations, aggravated mutual animosity. Each was in turn taunted with their patience in enduring the wrongs inflicted by a foreign nation, and with being its open apologists. It must be confessed that the aggressions of the belligerents derived but too much encouragement from the accusations which our citizens, in their bitter party contests, made against each other of undue foreign partialities, and unworthy submission to foreign injustice. Such charges were not confined to a licentious and vituperative press, but were reiterated by the intemperate in Congress, and occasionally fell from members who were, on other occasions, liberal and just. Thus, Mr. Milnor, of Pennsylvania, in opposing the bill which interdicted commercial intercourse with Great Britain, after insisting that the French decrees were not revoked as the President, in his proclamation, had assured them to be, remarks :

“Our Administration, confiding in Napoleon’s assurances, in the face of all his previous conduct, published the proclamation of the second of November, and thereby assisted in deceiving our too credulous citizens. We have heretofore affected to hold out a rigid neutrality towards both nations. The law of the first of May had that appearance. It held out a promise to each, that if she would cease to injure us, and the other should persevere, we would put certain sections of the old non-intercourse

law into operation against her. Neither has ceased to violate our neutral commerce, and yet we are about to act as if France had indeed done all that we could ask of her. Not satisfied with doing all we promised, we are going on to volunteer our services in the cause of France.”<sup>1</sup>

Mr. Wright, in the same debate, remarked: “It is not long, sir, since the late Administration was charged, on this floor, with being moved by an invisible hand; I wish I could pay the honorable gentleman from New York (Mr. Emott) even that compliment; for really, Mr. Chairman, had I by accident been placed in this Hall, without knowing where I was, and heard the speech of the gentleman from New York, I should have suspected myself in some great council, and that that gentleman was a British advocate, zealously discharging the functions of his vocation.”<sup>2</sup>

Mr. Clay, too, in the debate on the occupation of West Florida, asked, “Is the time never to arrive when we may manage our affairs without the fear of insulting His Britannic Majesty? Is the rod of British power to be for ever suspended over our heads? Does Congress put on an embargo to shelter our rightful commerce against the piratical depredations committed upon it on the ocean? — we are immediately warned of the indignation of offended England. Is a law of non-intercourse proposed? — the whole navy of the haughty mistress of the seas is made to thunder in our ears.”

It remains now to notice the acts and proceedings of a general character, which have not been already mentioned.

The amendment to the Constitution offered at the preceding session by Mr. Macon, but not acted on, was, in

<sup>1</sup> Annals of eleventh Congress, pp. 1005–6.

<sup>2</sup> Ibid. page 956.

December, on his motion, referred to the Committee of the Whole.

Its object was to make any Senator or Representative in Congress not eligible to any civil appointment of the United States during the time for which he was elected, nor until the expiration of the Presidential term during which such person shall have been a Senator or Representative.

Mr. Hubbard proposed to extend the exclusion, so as to exclude from office those who were Senators or Representatives at the time of the Presidential election, which amendment was rejected by fifty-nine votes to thirty-five.

Mr. Quincy proposed an amendment, which would also exclude the near relatives of the excluded Senators or Representatives, which he supported by a copious and able argument. It was, however, rejected by a large majority, and the proposed amendment of the Constitution receiving but sixty-one votes against fifty-nine, and requiring a majority of two-thirds, was thus rejected.<sup>1</sup>

The subject of inquiring into General Wilkinson's conduct was brought to the notice of the House by Mr. Pearson, and was referred to a select committee. At the close of the session the Chairman of the committee reported a mass of documents, which, with the report of the preceding session, were referred without comment to the Executive, by seventy-eight votes against forty-two.<sup>2</sup>

At this session occurred the third and fourth instances of the Presidential negative to bills which had passed both Houses. One was a bill to incorporate the Protestant Episcopal Church in Alexandria, and the other for granting land to a Baptist Church in the Mississippi Territory—he considering them to be against that article

<sup>1</sup> Annals of eleventh Congress, page 904.

<sup>2</sup> Ibid. page 1039.

of the Constitution which declares that “Congress shall make no law respecting religious establishments.”<sup>1</sup> On a reconsideration of those bills in the House, they both failed in obtaining the requisite majority of two-thirds, and were consequently rejected — the first by a vote of twenty-nine yeas to seventy-four nays, and the second by thirty-three yeas to fifty-five nays.

The discontinuance of the National Bank invited the establishment of others in the District of Columbia, both with a view of profit, and to aid the government in the collection and distribution of the public revenue. Accordingly, acts were passed to incorporate the Bank of Washington, the Bank of Potomac, the Union Bank of Georgetown, and to increase the capital of the Farmer’s Bank of Alexandria. They each had a capital stock of five hundred thousand dollars.

The only measure which might be considered as making any preparation for war, was an authority to the President to negotiate a loan of five millions of dollars, though it was now but too evident that the various expedients to which the United States had resorted to avoid the appeal would continue to prove unavailing, and that with nations still more than with individuals, patience in submitting to injustice is one of the least promising means of redressing or averting it.

<sup>1</sup> Annals of eleventh Congress, pp. 982 and 1097.

## CHAPTER XVI.

### MADISON'S ADMINISTRATION.

#### FIRST TERM.

1811—1813.

In addition to the difficulties experienced by the Administration from the foreign relations, were those which proceeded from a want of harmony in the Cabinet. The feud which had long existed between Mr. Smith and Mr. Gallatin still continued without abatement, and no efforts of Mr. Madison had been able to allay it. Believing that the public service required that one of these gentlemen should leave the Cabinet, and believing, moreover, from information received through several channels, that Mr. Smith was not cordial in the support of his Administration, he decided on retaining Mr. Gallatin, and in making a change in the office of Secretary of State.

After some explanations between Mr. Madison and Mr. Smith, in which the President, with his wonted courtesy and caution, intimated to the Secretary the change on which he had decided, and some of the motives which led to it, it was arranged between them that, at the end of the current quarter, Mr. Smith was to resign his office; and, to soothe the pain of dismissal, he was offered the honorable post of Minister to Russia, then about to be vacant by the return of Mr. Adams to the United States. The offer was at first gratefully

accepted, as it presented to the world a sufficient motive for quitting the State Department; but in no long time it was declined; as it was rumored and believed, by the advice of General Armstrong; and to remove all doubt of his present position, Mr. Smith published a pamphlet, in which he freely but urbanely disclosed the disagreement between himself and the President — ascribing it to the difference of their views as to the foreign relations of the United States, and especially as regarded those with Great Britain.

The vacancy in the State Department enabled Mr. Madison to advance his political interests, and to gratify his personal feelings. Mr. Monroe, on a visit to Washington, showed his respect and esteem for his former friend and associate, but recent rival, by calling on the President. This advance was cordially met by Mr. Madison, and soon after Mr. Monroe's return to Virginia, the office of Secretary of State was offered to him and readily accepted, to the general satisfaction of all the Republican party except those who had most warmly supported Mr. Monroe for the Presidency, who thought that his pride ought not to suffer him to repair the breach which ambition had made. He was openly and harshly denounced by Mr. Randolph and the more intemperate of that clique for his course on this occasion; but it must be a rigid code of morals which does not find as much reason to defend him for the reconciliation with his former friend as for the rivalry which had produced the disagreement. The reconciliation was perfect, and continued without subsequent interruption.

The newly-appointed Minister from Great Britain, Mr. Foster, arrived in June; and, in his first enunciation to the government, he expressed the regret of the Prince Regent, then the acting British sovereign, that

Mr. Pinkney had taken leave, and added that one of his first acts had been to send to the United States a Minister Plenipotentiary. On the following day that Envoy commenced one of those long and wearisome correspondences with the Secretary of State which were then so common in American annals, in which the diplomatists of the United States vainly endeavored, by argument and remonstrance, to defend their country from the insolent aggressions of European belligerents.

On the present occasion, while the British Minister urged the pretensions of his government with a degree of courtesy and decorum which had not been manifested by his predecessors, yet he yielded not one iota of those pretensions, whether he derived them from natural law or the general principles of equity. He reiterates the ground formerly taken, that the orders in council complained of by the United States were just retaliations of the French decrees, and would cease when those decrees were revoked. He denies the fact of their revocation ; in proof of which he refers to the seizure of American vessels since the first of November, under the decree of Fontainebleau in October, and to inferences from some declarations made by French Ministers. He says that the partial restoration of the property seized by France had been made “solely with the view of deceiving America.”

He complains of the injustice of the United States in submitting to French regulations not authorised by the law of nations, for the purpose of crushing the commerce of Great Britain ; and, in answer to an inquiry by Mr. Monroe, whether Great Britain requires, as a condition of repealing her orders in council, that France should repeal her decrees against vessels entering her ports with British merchandize from British ports, Mr. Foster replies

that America has not only suffered her trade to be moulded into the means of annoyance, but also assenting to the deceitful declarations of France, that her decrees are revoked, has enforced her non-importation law against Great Britain : that all the French decrees are parts of one system of warfare, and are so declared by herself. Until, therefore, those decrees are effectually repealed, His Royal Highness considers himself justified in adhering to his course of retaliation.

Mr. Monroe, not yielding to Mr. Foster in urbanity, defended the rights of the United States with dignity and ability.

He says that the United States are not willing to discuss the question of priority of aggression on their rights; as the fact in dispute can offer no justification to either belligerent. He dwells on the gross injustice of Great Britain, in retaliating the edicts of France when she is admitted to be unable to enforce them.

He warmly remonstrates against the attempt of Great Britain to force the trade of the United States with her enemy ; and, referring to the vagueness of the language used on this subject by Lord Wellesley, he says that nothing short of the specific declaration which the Minister had made, would have induced a belief in their reality.

He shows that the United States have acted impartially between England and France, and had the former proceeded *pari passu* with France, as she had formally declared she would do, the non-importation law would not have been enforced against her.

He says that the two vessels seized since the first of November, under the Berlin and Milan decrees, have been delivered up. He adds, that if delays have occurred in the restoration of American property seized in France,

that is a matter which exclusively concerns the United States.

In the last letter of Mr. Foster,<sup>1</sup> he says that, in the facts relied on by Mr. Monroe, he finds no proof that the French decrees have been revoked. He maintains that only that part of them appears to be revoked which France has no means of enforcing. He concludes with expressions of regret that he had not been able to convince Mr. Monroe of the continued existence of the French decrees, and he is convinced that whatever retaliatory restrictions on the commerce of the United States with the British dominions may ensue, they will be adopted with sincere pain, "and will, with pleasure, be relinquished whenever the United States shall resume their neutral position and impartial attitude between the two belligerents."

While this humiliating controversy between Messrs. Monroe and Foster was going on, the terms of which no belligerent could use without insult, and no neutral could discuss without dishonor, the occasion of a correspondence of a very different character occurred between the same parties.

It seems that the American frigate President, commanded by Captain Rodgers, while cruising on the American coast, fell in with a British sloop-of-war, called "The Little Belt," Captain Bingham, soon after night-fall. When each ship had hailed the other, but before either inquiry was answered, The Little Belt fired into the President, and the fire being returned, and several broadsides exchanged, The Little Belt was severely crippled, and the ships separated. The next morning an explanation took place, and Captain Rodgers offered any assistance that might be required, but this was de-

<sup>1</sup> October 31st.

clined, and The Little Belt proceeded to Halifax for repairs.

This encounter took place on the sixteenth of May, and the statements of the officers and crews of the respective ships were very contradictory, particularly as to the ship which fired first.

On the third of July, 1811, Mr. Foster addressed a note to Mr. Monroe on the subject, in which note he expressed his satisfaction at the verbal assurances received from Mr. Monroe, that Commodore Rodgers had received no instructions that could authorise his attempt to recover, by force, any person claimed as an impressed American citizen from any British ship-of-war—as had been currently rumored, and as seemed inferrible from Commodore Rodgers's conduct and expressions. He accepts Mr. Monroe's offer of a more formal statement to transmit to his government. He then refers to the representation made by Captain Bingham, which greatly varied from that of Commodore Rodgers; and he infers, from the facts in which they differ, as well as those in which they agree, that Commodore Rodgers's conduct has been indefensible, and demands suitable reparation.

Mr. Monroe replied on the sixteenth of July, and renews his statement that no instructions had been given to Commodore Rodgers to recover impressed seamen, though the excitement produced by recent and previous aggressions, particularly by the impressment of American citizens from American vessels, had been great, but merely for the protection of their coast and commerce within the legitimate limit.

In Mr. Foster's reply,<sup>1</sup> he regrets that Mr. Monroe, not content with a simple denial of the instructions to Commodore Rodgers, should have connected it with other

<sup>1</sup> July 24th.

topics of an irritating character, and on which, whatever complaints might be founded, he was ever ready to receive and forward to the proper authorities. He says, moreover, that the tenor of Mr. Monroe's remarks implies that, although the American government had not given the orders in question, they still maintain that they might have been justified in so doing. This right of searching ships-of-war having been disclaimed by both governments, he could not have expected that any doubts would ever be again raised on the question. He expresses surprise that no notice is taken of his demand for an inquiry into Commodore Rodgers's conduct, and which he had expected from the spontaneous act of the American government. He refers to what was done by the British government in the case of the *Chesapeake*. In consequence of this affair, he had suspended such offer of reparation for that late attack as he was convinced would have proved satisfactory.

In a subsequent note, dated the fourth of September, he communicates to Mr. Monroe documents to show the circumstances of the encounter between the President and The Little Belt; the injury done to the vessel and her crew; and the correspondence on the subject between Lord Wellesley and the American *Charge*. He requires a prompt disavowal of the act; a just reparation. According to these documents, the President fired first, after having given chase to The Little Belt. The killed and wounded were twenty-eight, and the injury to the ship was very great. He refers particularly to the instructions to Captain Bingham to refrain from giving just cause of offence to the United States.

After some further correspondence between these Ministers, in which each party is careful to claim as much, and to concede as little as he can, Mr. Monroe sent to

Mr. Foster<sup>1</sup> a copy of the proceedings of a Court of Inquiry held on the conduct of Commodore Rodgers, in the late encounter between the President and The Little Belt. The result of the Inquiry, fairly conducted as it was, cannot leave a doubt on the mind of any one that Captain Bingham made the attack without justifiable cause. Mr. Monroe enters into some explanation of the facts, and insists that Rodgers had a right to know the character of the vessels hovering on the American coast, and of the mischiefs often experienced, which such information might prevent.

Mr. Foster says<sup>2</sup> that the document sent to him is so far satisfactory, as it shows that Commodore Rodgers has endeavored to exculpate himself, and that he shall transmit it to his government. "It certainly proves," he adds, "a most unaccountable difference to exist between the officers of The Little Belt and of the President; and it appears from the testimony of the last, that, from the orders given by Commodore Rodgers, he seems to have expected an encounter."

There was this difference in the testimony of the persons on board these two vessels, that every person on board the President was positive that The Little Belt fired first; while on board The Little Belt the Chaplain was said to differ from the rest of his associates, and to confirm the statement of Commodore Rodgers.

During the summer there was a third correspondence between the same Ministers, which grew out of the seizure, by the United States, of that part of West Florida which lies west of the Perdido, and which they believed to be comprehended in the Louisiana purchase.

On the second of July, Mr. Foster writes to Mr. Monroe, and after adverting to the occupation of West

<sup>1</sup> October 4th.

<sup>2</sup> October 24th.

Florida by the United States, he says that Spain had called the attention of Great Britain, with whom she was in strict alliance, to the fact; that the Prince Regent hoped the American government had not been led to this step by motives of ambition, and he would be glad to learn that the present state of Spain had no influence in prompting it, when she is engaged in a noble contest for her independence; and that if the United States persevere in their claim, His Royal Highness protests against a measure so contrary to public justice, faith, and national honor; and injurious to his alliance with the Spanish nation.

Mr. Monroe replied<sup>1</sup> that though the President could not admit the right of Great Britain to interfere in any question relative to West Florida, he was willing to explain the considerations which had induced the United States to take the step against which the Prince Regent protests.

He utterly disclaimed all intention on the part of the United States to take advantage of the temporary embarrassment of Spain to wrest from her a province to which they have no right. Such a course would be unworthy of the United States, and inconsistent with their history.

He then adverts to the long catalogue of injuries done by Spain to the United States, to prove their forbearance. He undertakes to show that West Florida to the Perdido was part of Louisiana, and of course was purchased by the United States from France. A negotiation on the subject between them and Spain had been agreed upon, but never acted on. Since 1805, the government of Spain had scarcely been felt there, and the affairs of the province had fallen into disorder until last year, when the inhabitants decided on taking the country

<sup>1</sup> July 8th.

into their own hands, and when the American government first interposed to preserve their own rights to the country. By this occupation they have acquired no new title to West Florida. The rights of Spain will, as soon as its government is settled, be the subject of amicable negotiation. Mr. Pinkney and other American Ministers were duly instructed to give this explanation, aware that the course of the government "might be misconceived and misrepresented."

This answer by Mr. Monroe seemed to be satisfactory, but on the fifth of September Mr. Foster wrote to Mr. Monroe that Chevalier D'Onis, the Minister from Spain to the United States, had informed him that he had learned from the Governor of East Florida, that Governor Matthews, of Georgia, was on the frontier of Florida for the purpose of treating with the inhabitants for its being delivered up to the United States, and that he was using every method of seduction to effect his purpose. Mr. D'Onis had prepared a note to be transmitted to Mr. Monroe, and, by reason of the alliance between Great Britain and Spain, had asked Mr. Foster's co-operation. After the explanation given by Mr. Monroe in July, he cannot think that Governor Matthews can have the sanction of the President's orders; but Mr. Matthews's efforts to excite rebellion in the subjects of Spain create the liveliest inquietude, and call for the earliest interference of the American government. There being no pretext for the United States to occupy any portion of East Florida, he asks for an explanation "of the alarming steps taken by Governor Matthews, under what authority he is acting, and what measures have been taken to arrest his proceedings."

Mr. Monroe replied<sup>1</sup> that, in his letter of July pre-

<sup>1</sup> August 2d.

ceding, he had stated the various injuries received by the United States from Spain, and that a claim to indemnity for these injuries was altogether unconnected with the question relating to West Florida, which was acquired by purchase from France. The government of Spain has never denied the right of the United States to indemnity for spoliations on their commerce. She admitted it in 1802. A further claim arose from her refusing the right of deposit at New Orleans. That war did not ensue is a proof of the moderation of the United States. These claims were made the subject of negotiation with Spain, and a cession of the whole Spanish territory east of the Mississippi was also matter of negotiation as indemnity to the United States. They have considered Spain indebted to them to an amount exceeding the value of East Florida. They have looked to this province for that object, because Spain herself had countenanced it. They have acquiesced in the delay of settlement from the disordered condition of that Power; but they could not longer, from their respect for Spain, forget what was due to themselves. In this state of things, they could not see East Florida pass into the hands of any other Power. Such a course would be both unjust and discreditable to the United States, especially from the important bearing which this province, in the hands of another Power, would have on their commercial interests.

He says that the United States have not been unmindful of what has been agitated in Europe as to the Spanish provinces in America, nor of the effect of the disordered condition of Spain in those provinces; and that remissness on their part might invite danger, if that effect had not already taken place. From these considerations, Congress, at its last session, passed an act authorising the

Executive to accept possession of East Florida from the local authorities, or to take it against the attempt of a foreign power to occupy it; but, in either case, it should be subject to future friendly negotiation. The Ministers of the United States at London and Paris were instructed to give these explanations, and they had already been made by Mr. Smith, the American Chargé d'Affaires. He relies on the course taken by the United States as a proof of their moderation; but he adds that this amicable disposition towards Spain "cannot be indulged longer than may comport with the safety, as well as with the rights and honor of the nation."

We have seen that, at the adjournment of Congress in March, the aggressions on American rights by the two great belligerents of Europe were so nearly equal, that it seemed difficult to adopt any active course of vindicating those rights unless we adopted the desperate expedient of making war on both; and even that mockery of retaliation, which suspended commercial intercourse with Great Britain, and which was felt by the United States at least as much as by their oppressors, subjected the party in power to the reproach of prejudice against England, and of predilection for France. But in the course of the summer and autumn despatches<sup>1</sup> from their agents in Europe relieved them from all embarrassment as to the difficulty of choice. While the letters from Mr. Russel informed them that the eight American vessels<sup>2</sup> which had been seized by the French government after the first of November, 1810, had been released, Mr. John Spear Smith wrote that the orders in council were enforced with unabated vigor. He sent them a list of twenty-six American vessels<sup>3</sup> which had been con-

<sup>1</sup> VIII. State Papers, page 375.

<sup>2</sup> Ibid. page 200.

<sup>3</sup> Ibid. page 180.

demned in the Court of Admiralty, and two others which would share the same fate.

These despatches were not immediately published, but their contents were generally known.

The seeming evasions of the British government to fulfil its repeated pledges respecting the repeal of the orders in council raised the public indignation to a higher pitch than ever; and in every part of the Union, except, perhaps, in New England, was an increased clamor for war, to which the Administration was believed to be indisposed, and for which many even of its friends began to believe it unfit.

In this state of the public mind, the meeting of Congress was most anxiously expected. That body assembled, agreeably to the President's proclamation in July, on the fourth of November, a month earlier than the regular time of meeting; and on the same day Henry Clay, now first a member of the House, was elected Speaker. The next day the President communicated to both Houses his introductory message.

He tells them that, at the close of the preceding session, it was hoped that the revocation of the French decrees would have induced the British government to rescind its orders in council; instead of which, however, these orders had been put into more rigorous execution. As an indispensable condition of their repeal, it is required that British commerce should be so restored as to admit the productions and manufactures of Great Britain, when owned by neutrals, into ports shut against them by the enemy. In the mean time, it intimates to the United States that the continuance of their non-importation act would lead to retaliation: that redress for other wrongs is still withheld, and that the coasts and harbors of the United States have continued to witness

vexations to their commerce, and violations of their rights.

The affair of the President and The Little Belt is then noticed. He also complains that France has, as yet, failed to repair the wrongs done to the United States on grounds not affecting other belligerents; and they have further cause of complaint against her for the new restrictions to which her trade with the dominions of France has been subjected, and which will require correspondent restrictions on importations from France.

He mentions the measures taken for public defence by fortifications, gun-boats, and ships-of-war. It had been found necessary to send troops, both regulars and militia, against the Indians on the Wabash, who, excited by a fanatic of their tribe, have committed murders and other outrages.

He says the period had then arrived, when the guardians of the national rights must make more ample provision for maintaining them. Notwithstanding the justice, the moderation, and the pacific efforts of the United States, the British government perseveres not only in withholding reparation for other wrongs, but also in the execution of measures which have the character and effect of war on our lawful commerce. Upon Congress will consequently "fall the duty of putting the United States into an armor and an attitude demanded by the crisis," and expected by the nation. He therefore recommends that provision be made for enlisting regular troops, for the acceptance of volunteer corps, and for detachments of militia, together with an increase of the stock of materials for ship-building.

He advertises to the efforts of the Spanish-American colonies, and remarks that we should cherish sentiments of reciprocal good-will, and be not unprepared for what-

ever order of things which may be there finally established.

He denounces with severity the practice of smuggling, “which attains its utmost guilt when it blends with a pursuit of ignominious gain a treacherous subserviency to a foreign policy. Our citizens, too, should be punishable for accepting foreign licenses to engage in a trade which is interdicted to our other citizens.” He suggests that, amid the subjects which press more strongly on their attention, the interests of manufactures and of navigation ought not to be neglected.

The receipts into the treasury for the last year had exceeded thirteen and a half millions of dollars; which, besides paying the current expenses, had enabled us to pay off five millions of dollars of the public debt, without recurrence to the loan authorised by Congress; but that a decrease in the revenue for the coming year was to be expected, and must be provided for.

The calm tone of this message was hardly in keeping with the temper which had been recently manifested throughout the nation, or as we shall see, of a majority of the National Legislature.

On the first of November, Mr. Foster had written to Mr. Monroe that he was authorised to offer reparation for the attack on the Chesapeake, on the following terms :

First. The prompt disavowal made by His Majesty on learning the unauthorised act of the officer commanding his naval forces, who was immediately recalled from a highly important and honorable command, as a mark of His Majesty’s disapprobation.

Secondly. He is authorised to offer the immediate restoration of the men taken from the Chesapeake, as far as circumstances will admit, to the vessel from which

they were taken, or, if she be no longer in commission, to such seaport as the American government may name.

Thirdly. Also to offer a suitable pecuniary provision for the sufferers from the attack, including the families of those who fell in the action, and of the wounded survivors. These propositions were made with the sincere desire that they might prove satisfactory.

In Mr. Monroe's answer to this note, on the twelfth of November, he says, "It is much to be regretted that the reparation has been so long delayed ; and that the translation of the offending officer from one command to another as a part of a reparation otherwise satisfactory. Considering, however, the early and amicable attention paid to it by His Royal Highness, the President accedes to the proposition, and thus affords a proof of the conciliatory disposition by which he has been actuated.

Thus this outrage, which the British government did not undertake to defend, obtained this inadequate reparation, after it had been withheld, on various pretexts, for more than four years.

About four weeks after the message had been referred, the Committee of Foreign Relations made a report by their Chairman, Peter B. Porter, of New York. In a calm but decided tone the report successively reviews the lawless aggressions made by the belligerents of Europe on the commerce of the United States, the pacific measures resorted to by America in preference to war, then the repeal of the French decrees and of the refusal of Great Britain to follow this example, as she had engaged to do ; her continuance to impress American seamen ; and lastly, her novel and extravagant pretensions, as the conditions of her rescinding her orders in council. They therefore declare that the time has come

when forbearance ceases to be a virtue, and that it is the duty of Congress to call forth the patriotism and resources of the country in vindication of its rights. With this view, they recommend the adoption of the following resolutions :

First. To fill up the ranks of the present military establishment by the aid of a bounty.

Second. To raise an additional force of ten thousand men by the like means.

Third. To authorise the President to accept the services of fifty thousand volunteers.

Fourth. To give like authority to order out such detachments of militia as the public service may require.

Fifth. To cause the public vessels not now in service to be fitted out immediately.

Sixth. To permit merchant-ships owned and navigated wholly by American citizens, to arm in self-defence.

The report and resolutions were referred to the Committee of the Whole, without dissent or debate. A brief notice of the discussion which ensued will show the views then entertained not only by the members, but by the nation generally, of what it could and ought to do in defence of its violated rights.

The debate was opened by the Chairman, in explanation of the views and opinions of the Committee. He said they were satisfied, from a review of all the documents submitted to them, that all hopes of an accommodation were at an end, and that the conduct of Great Britain was regulated solely by her calculations of the extent of our forbearance. Every year she has advanced in her pretensions. The Committee believe that the orders in council which interfere with our direct trade justify us in incurring the risk and expense of war. On

our right to the carrying trade no definitive opinion was expressed.

Those orders in council cut off three-fourths of our commerce. As a mere question of profit and loss, it would be better to resist them by war than to submit to them.

He then adverted to our character with the world at large, of so much importance to all countries, and especially to a young nation. It was admitted that we could not contend with Great Britain on the ocean, but even there our privateers could greatly annoy her. It was, however, in her possessions on this continent that she was most vulnerable. As soon as the preparations recommended by the Committee were in a state of forwardness, the Committee meant to advise their employment. They considered this course preferable to an immediate resort to war.

All the resolutions were adopted in Committee on the same day, with the exception of the sixth, which allowed merchant-vessels to arm — Messrs. M'Kee and Wright wishing to go further, and to allow merchant-vessels not only to resist, but to capture their assailants ; but this proposition was rejected, as it would be an act of war. The first resolution was then carried in the House, by one hundred and seventeen votes to eleven.

The subject was resumed on the ninth. The second resolution, for raising regulars, was warmly opposed by Mr. Randolph, and supported by Messrs. Grundy, Cheves, and others. The next day Mr. Randolph renewed his opposition to the second resolution in a long speech. He said that he considered this essentially a question of peace or war, and a war of conquest, which he deprecated, and which was contrary to the Republican maxims and policy in 1798 and 1799. He warned the party in

power of the fate of the Federalists, who owed their downfall to their intoxication with success, and to the different course pursued towards Spain in 1803, and subsequently. He denied the probability that the Indians on the Wabash had been stimulated by the British. He rejected the distinction between the direct and the carrying trade, and thought that we ought to contend for both, if clearly right.

He said that if we succeeded in acquiring Canada, that would not materially affect the power of England, which is emphatically on the ocean; and the House was reminded that as Chatham and Burke, in 1776, wished success to the colonies, so must some of the best men of the nation now wish success to England, the only power that holds in check the arch-enemy of mankind. He spoke of those whom the prospect of a military establishment had called forth, and tempted with the prospect of profitable contracts and agencies. "No sooner was the report laid on the table, than the vultures were flocking round their prey—the carcase of a great military establishment." He adverted to the times of the sedition law, when John Adams and Porcupine were united—a time of "corruption, oppression, and pollution."

He said that the people would not be taxed for a war of conquest, and which, if successful, must diminish the political power of the South and the West. He dwelt upon the defenceless state of the seaports, and adverting to the dangers from the black population, spoke of the alarms of insurrection in the last ten years, severely denouncing the wicked intermeddling of the abolitionists, and added, "The night-bell never tolls for fire in Richmond that the mother did not hug her infant more closely to her bosom."

He professed sympathy for the revolted Spanish pro-

vinces, and taunted the Administration for seizing one of them.

He defended himself from the charge of British attachments, and bitterly assailed those who made it. He then launched out into an eulogy on the civil and political institutions of England, and asked in what school the Washingtons, the Henrys, the Hancocks, Franklins, and Rutledges of America had been taught. He acknowledged the influence of a Shakspeare and a Milton, of a Locke, a Sidney, a Chatham, a Tillotson, a Sherlock and a Porteous. This was "the British influence which he could never shake off," and he said that "this antipathy to all that is English must be French, and originated with felons escaped from the jails of Paris and Newgate." He asked "what would be the conduct of France if she had the naval power of Great Britain? Let Hamburg, Bremen, and Lubec tell; and shall republicans become the instrument of the modern Attila?"

He spoke contemptuously of the force which was to invade Canada, and besought Congress to look at the state of defence at home. He asked where was the Montgomery, or even Arnold or Burr, to march to Point Levi? He reminds them, in conclusion, that after boasting of paying off the public debt, they were now become as infatuated with standing armies, loans, taxes, navies, and war, as ever were the Essex junto.

The variegated brilliancy of Randolph's speech, clothed in chaste diction, spiced with pungent sarcasm, and uttered in his silvery tones, was greatly admired, but made no converts.

He was followed by Richard M. Johnson, of Kentucky, probably then, and for some years subsequently, the only native of the West in Congress. His speech, which showed determination of purpose, expressed in his quiet,

careless, good-natured way, maintained the principles of the report throughout.

After thanking the Committee for their report, which, however, fell short of his wishes, and as he believed of public expectation, he noticed the numerous causes of complaint against Great Britain. He said, for the first time since he had a seat in that body, there now seemed to be but one opinion with a great majority, that war was inevitable. Indeed, "upon the Wabash, through the influence of British agents, and within our territorial sea by the British navy, war had already commenced." He said that, "considering the deadly and implacable enmity of Great Britain, he should never die contented until he saw her expulsion from North America, and her territories incorporated with the United States."

He thought the Canadian French were equal to the Canadian English, and would make as good citizens; in proof of which he referred to the opinions of the patriots of the Revolution. He stoutly maintained the exertion of British influence in the late conflict on the Wabash; and he justified himself for not entertaining the favorable sentiments of Mr. Randolph towards England, under his indignant sense of her wrongs to his country. He had never thought that "the ties of religion, of blood, of language, and of commerce, would sanctify insult and injury; on the contrary, that a premeditated wrong from the hand of a friend created more sensibility, and deserved the greater chastisement and the higher execration."

He said the ties of religion, of language, of blood, as it regards Great Britain, are dangerous ties to this country, with her present hostile disposition. Instead of pledges of friendship, they are used to paralyze the strength of the United States; and he noticed in detail the numerous sources of British influence here. He

entered into a long detail of British aggressions, and remarks: "Thus twenty-eight years have elapsed, and the only remedy attempted against these crying enormities has been negotiation and remonstrance, which, so far from producing any beneficial effect, have been followed by further innovations and new pretensions." He paid a warm tribute to the love of country as well as bravery of the regular army, in answer to Mr. Randolph, who had called them "mercenaries;" and he again gave some of the particulars of the late battle of the Wabash.

The debate was continued by Mr. Wright, of Maryland. He owed his popularity to his high-minded and dauntless character; and as, from his over-lively sense of honor, no man ever offended him with impunity, so he had ever been among the most forward to avenge the wrongs to his country.

He considered the question as one of war or submission; dire alternatives, between which he trusted that no honest American could hesitate in choosing, when the question was fairly understood. He denied that the dispute is about the carrying trade, as had been maintained; to which, however, the Americans have as much right as to carry the products of their own soil.

Referring to Mr. Randolph's remark, that if Great Britain had an agency in exciting the Indians to the massacre of the troops under Harrison, he would avenge it, he said, "Can he, then, feel less bound to avenge the slavery and death of American impressed seamen, committed directly by Britons themselves, than the death of citizens by the savages through British agents?"

After noticing various causes of complaint, he defends the citizens of the West, and others, from being influenced, in voting for war, by the sordid motives of seeking to raise the price of hemp, of beef, and flour; and he

refers to the sentiments expressed by the Senate of Maryland, and to the pregnant fact that one-half of the preceding Congress had been removed by their constituents in consequence of their tame and temporizing policy.

The conclusion of his speech was a copious defence of General Wilkinson, the commander of the army, whom Mr. Randolph had characterized as an “acquitted felon.”

The next day, Mr. John C. Calhoun,<sup>1</sup> a new member from South Carolina, spoke on the same side. His speech was, in the main, an answer to Mr. Randolph, and even then exhibited that earnestness of manner, talent for close reasoning, and elevation of sentiment, by which he was subsequently so distinguished.

He said that the resolution under consideration would not be warranted, but as a preparation for war; and believing war to be justifiable, he should vote for the resolution.

After insisting on the just causes of war, according to the admissions even of the gentleman from Virginia, he examined the objection that we were not prepared. He denied that the people would object to paying taxes in support of the war, and suggested several points of difference between the condition of the United States now and in 1798. But it has been said that the rights violated are not worth defending, or that the cost of the defence will exceed its benefits. He entered his solemn protest against this “calculating avarice” in the Hall of legislation. It was fit only for shops and counting-houses, and ought not to disgrace the seat of sovereignty. If the gentleman from Virginia desires to repress the gallant ardor of our countrymen, “let me inform him that true courage regards only the cause — that it is just and

<sup>2</sup> Annals of twelfth Congress, page 476.

necessary — and that it despises the pain and danger of war."

He considers also that the dangers of a state of war have been overrated, and that those arising from the slave population are visionary, at least in his own State. In our officers and soldiers we shall find patriotism no less pure and ardent than in our private citizens; but if they should be depraved, what have we to fear from twenty-five to thirty thousand regulars? Where will be the boasted militia of the gentleman? But it is said that our Constitution is not calculated for war, and that it cannot withstand its rude shock — then has it failed in its essential part "to provide for the common defence." He denies that this would be an offensive war. Had such arguments prevailed at the Revolution, that Hall would never have witnessed a great nation convened for the general good.

He denied that the base motives assigned by the gentleman had any influence in bringing about war, or that it was caused by the hatred to England, or love of France. He admitted that we had cause of complaint against France; but insisted that when two invade your rights, you may resist both or either at your pleasure. It is regulated by prudence, and not by right.

He admitted that we had much to attach us to England, and great must be the cause which had overpowered it. Has the gentleman from Virginia examined the reasons of our high regard for Chatham? It is his ardent patriotism — the heroic courage that could not brook any insult or injury offered to his country. But England is said to be a barrier against the military despotism of France. This argument of the balance of power is suited to the British Parliament, not to the American Congress. Tell them that if they persist in insult and

injury to the American people, they will throw the whole weight of that people into the scale of their enemy. He justified the delay of declaring war in our present want of preparation, and denied that Great Britain would commence hostilities, both because she would thereby unite all parties, and would, moreover, calculate on the continuance of our patience and submission.

The lofty patriotism which breathed through this speech found a ready sympathy with seven-eighths of its hearers.

Mr. Desha<sup>1</sup>, of Kentucky, followed in a speech more evincive of spirit than good taste. He occupied the same ground, in support of the resolution, as those who had preceded him, and indulged in a style of vituperative declamation against Great Britain and her Envoys to America, from Rose to Foster, and of those among us who, to gain “the favor of the enemy, have betrayed their country.” He thought the report of the Committee had not gone far enough, but he was willing to wait until the ensuing spring, and then grant letters-of-marque and reprisal, if the orders in council were not revoked, our impressed seamen released, the principle of impressment relinquished, and ample reparation made for damages.

Mr. Troup, of Georgia, who took a juster view of our position, rose to terminate a debate in which the great mass of the House were enlisted against the solitary gentleman from Virginia. He was ready to go heart and hand with the advocates of the resolution. All he asked was, that they would “lead with prudence and discretion;” resort to deliberation or action, according to circumstances. “But if,” he added, “the spirit of debate, as in former times, has seized upon us; if idle verbiage and empty vociferation are to take the place of manly and

<sup>1</sup> Annals of twelfth Congress, page 488.

energetic conduct, I enter, at this early stage of the proceedings, my solemn protest ;" and said if this course was persisted in, he should be constrained to call the previous question.

He disapproved the open declaration of our warlike purpose, and of the intended invasion of Canada, as "more magnanimous than wise." Let gentlemen look to the character of the enemy, who is not feeble or spiritless, destitute of courage, of resources, or honor. "With two hundred and fifty thousand regulars, and all the munitions of war in store, his fleets and his transports manned, equipped and provisioned, they ask but one hundred and twenty days to reinforce Quebec, to fortify Montreal, to guard the passes into Canada, to march the supernumeraries to Boston. He deprecated all further war speeches, which, he said, the people of the country did not want. "They will go to war, because they believe war necessary to the preservation of their honor and substantial interests. They want men and arms to defend them — not words."<sup>1</sup>

Mr. Macon took a yet more temperate course. Without any of the higher attributes of oratory, this gentleman was an impressive speaker, from his evident good sense, and the conviction always made on his hearers of his sincerity and honesty of purpose. He admitted that the Administration had done every thing that could have been expected to avoid the present crisis, and to keep the nation at peace ; and if Great Britain would cease to violate our neutral rights, our difficulties would cease : that there was no longer a question about the colonial carrying trade, as Great Britain now possessed all the West India Islands ; but that she had determined to execute with rigor her unjust orders against our carrying

<sup>1</sup> Annals of twelfth Congress, page 492.

the productions of our own soil to any market except her own, or that of her allies.

He considered all further negotiation useless. He was as desirous of peace as ever; and if any plan should be proposed by which the peace of the country could be preserved, and our right to export our native produce maintained, he would prefer it to war; but if no such plan could be devised, he was willing to go to war for that right. He positively disclaimed, however, any intention of going to war either to encourage manufactures, or to build a fleet.

He was opposed to the previous question. He wished to have the sentiments of all the members, and especially of those who lived on the Eastern frontier. He showed that there would be no disadvantage in delay. He should vote for the resolution, but meant to give no pledge to vote for the number of men mentioned in debate. In answer to the remarks which had been made in favor of secret proceedings on this occasion, he pronounced them useless, as experience had shown that Congress had never kept a secret one week.

Mr. Smilie, of Pennsylvania, spoke in favor of the report and resolution, when the House adjourned.

The subject being resumed the next day, Mr. Dawson, of Virginia, who was the half-brother of Mr. Monroe, spoke briefly, but decidedly, in favor of the report. "All that we want," said he, "are men. No, sir, pardon the expression, all that we want is an expression of the will of the nation. Let this House, let the constituted authorities declare that will; let them declare 'the republic to be in danger,' and thousands and tens of thousands of our fellow-citizens will rally round the standard of their country, resolved to support her rights, avenge her wrongs, or perish in her ruin."

Mr. Nelson,<sup>1</sup> of Virginia, succeeded. He was indebted for his share of public favor partly to an imposing voice and manner, and yet more, perhaps, to a hereditary popularity. He began by disclaiming all intention of pledging himself to vote for such ulterior measures as the Committee should recommend, by voting for the resolution under consideration. He might be denounced as an apostate, but proscription should have no influence on his conduct. He considered that war was not likely to effect the objects its friends had in view. He sympathized with the sufferings of our impressed seamen, but would a territorial war exempt them from impressment? The way to enforce our rights was by a great maritime force, which the nation was incompetent to raise and support. He denied the efficacy of letters-of-marque, and deprecated the invasion of Canada, as an act of foreign conquest. He thought that a war would change our political institutions. It would strengthen the Executive arm at the expense of the Legislative. "War would introduce a slavish subordination among the people. They would lose their republican simplicity and their republican independence. He declared, however, in conclusion, that if war was necessary, he would vote for it.

Mr. Findley,<sup>2</sup> of Pennsylvania, maintained that the Indians on our borders had been stimulated to hostility against the United States by British agents, though the fact admits only of circumstantial evidence. He was, therefore, in favor of increasing our regular force, not with the settled purpose of going to war. His aim was to prevent war, one of the best means of which is to be prepared for it. He should vote for the report, but would not pledge himself to support the Committee in their ulterior measures.

<sup>1</sup> Annals of twelfth Congress, page 502.

<sup>2</sup> Ibid. page 503.

Mr. M'Kee,<sup>1</sup> of Kentucky, by a temperate course of reasoning, aimed to show that the United States had acted wisely in preserving their neutrality as long as possible, but that now war, with all its evils, was the preferable course; yet he thought that an embargo must be laid before there was a resort to hostilities.

Mr. Stanford, of North Carolina, one of those who commonly voted with Mr. Randolph, was opposed to the report. He admitted that Great Britain had given just cause of war, but it had always been the republican doctrine to cherish peace. Such had been the policy he supported in 1798, when the causes of war were greater than at present, the attack on the Chesapeake having been atoned for. Adverting to Mr. Calhoun's arguments in favor of war, he said that the same doctrine had been the theme of similar declamation from the same State in 1798 and 1799 (alluding to Mr. Harper), and it was fair to expect that public opinion would come to the same result in both cases.

The impressment of seamen had been the cause of just complaint during Washington's Administration, Adams's, and Jefferson's, as well as the present; but it was not thought to be sufficient cause of war. He complimented Jefferson, who, after the affair of the Chesapeake, might have had the support of all parties for war; but who, knowing that peace was the best interest of his country, forbore to call Congress together. He referred to our pacific policy since. Opposed as he was to our linking our destinies with those of European Powers, and to taking any share in their present conflicts, he would contribute in no way to bring about a state of things which would prove most ruinous to the country.

Mr. King, from the same State, replied to his col-

<sup>1</sup> Annals of twelfth Congress, page 506.

league, and warmly and ably supported the ground taken by the Committee. He made an animated appeal to the patriotism of the House, but agreed with the gentleman from Georgia that they should put an end to the debate.

Mr. Boyd, of New York, made a speech against the expediency of war, but said he should vote for the resolutions, without pledging himself to any ulterior course.

Mr. Lacock, of Pennsylvania, was in favor of the report, and closed the debate on the thirteenth of December.

On Monday, the sixteenth, Mr. Randolph<sup>1</sup> made another effort to weaken, if he could not defeat, the majority. He spoke for several hours in his wonted erratic and incoherent style, sometimes brilliant, and always amusing. His main purpose was to show that the wrongs done to the United States by France exceeded those done by England, and to exhibit France and its government in every aspect which could excite odium or contempt, with renewed encomiums on England, her institutions, and the Anglo-Saxon race generally.

The House then proceeded to take the question on the several resolutions reported by the Committee of the Whole, when it appeared that, in favor of the second resolution, to raise additional troops, there were one hundred and ten yeas to twenty-two nays. On the third resolution, to accept the services of volunteers, there were one hundred and thirteen yeas to sixteen nays. On the fourth resolution, for ordering out detachments of militia, one hundred and twenty yeas to eight nays: and for the fifth resolution, one hundred and eleven yeas to fifteen nays.<sup>2</sup>

The sixth resolution, for permitting merchant-vessels to arm, was laid on the table, and the three first resolu-

<sup>1</sup> Annals of twelfth Congress, page 525.

<sup>2</sup> Ibid. page 548.

tions were referred to the Committee who reported them, with instructions to bring in an appropriate bill.

These indications of the public sentiment, showing that war was desired by most, and was expected by all, called forth a communication from the British Envoy to the Secretary of State, dated the eleventh of December, 1811.<sup>1</sup>

Mr. Foster says that he has perceived statements from respectable sources, of the pretensions of Great Britain, which are not warranted by any of his letters, and which, if left unrectified, may produce effects greatly to be lamented by both countries.

He disclaims ever to have demanded that the United States should pass a law for the introduction of British goods into American ports, or should undertake to force France to receive British manufactures.

What he meant to say was, that the admission of French commerce, while that of England was excluded from the United States, was regarded by England as unfriendly; and if continued, it would be retaliated by similar restrictions. Besides, the non-importation act not only excludes British trade, but also British ships-of-war, while it admits those of France. A neutral nation is bound to use equality towards the belligerents; and His Majesty's enemies profit by this inequality to prey on the commerce of his subjects.

This prohibition might, perhaps, justify Great Britain in refusing to repeal her orders in council until all the belligerents should be placed on the same footing.

As to the supposed demand that America should force the admission of British manufactures into France, he says that the question of retaliation is directly one between England and France. In consequence of the

<sup>1</sup> I. Niles's Register, page 355.

extraordinary blockade of England, she has blockaded France, and prohibits trade in French articles in return for the prohibition by France of trade in English articles; but that this prohibition unavoidably operates on the United States. It is a measure of retaliation against France, and its action on neutrals is an incidental effect, consequent on the submission of neutrals to the original measures of the enemy.

The result, he says, is to be regretted, but sees not how this can be considered a war on American commerce, when all other trade but that which is carried on with French ports is unaffected by it. If French commerce is important to America, England expects that she should exact of France to trade with her according to her neutral rights. But if they waive this right, England asks that she should abstain from lending her assistance to the trade of France, and "not allow her commerce to be a medium of undermining the resources of Great Britain."

If the United States are willing to acquiesce in the regulations of the French decrees, unlawfully affecting England through them, they cannot be surprised if she refuses permission to the French to profit by that acquiescence.

He says that his government has not been able to see, in Mr. Monroe's letter of the seventeenth of October, proofs of the repeal of the French decrees; for, if that were the case, licenses from them to trade would not be necessary, nor would the French government have failed to put forth some instrument by which the world might know to what extent those decrees were repealed; and it appears, from the American *Chargé d'Affaires* at Paris, that the vessels captured after the first of November were not restored until the President's proclamation was

known in France; and that vessels have been taken as late as the twenty-first of December, in voyage from the United States to London.

Mr. Monroe replied on the fourteenth of January, 1812. He says that the President regrets to find, in Mr. Foster's letter, only new proofs of the determination of the British government to adhere to that policy to which the present difficulties between the two countries is imputable.

After quoting Mr. Foster's interpretation of his own meaning, Mr. Monroe says that the United States are justified in adhering to the non-importation act by the refusal of the British government to repeal its orders in council; and "if a difference is thus produced between Great Britain and France, it must be referred to a difference in the conduct of the two parties."

The explanation given by Mr. Foster on the second point cannot be satisfactory, because it does not meet the existing state of facts. France did, indeed, declare a blockade against England, but this blockade no longer exists. A part of these decrees also prohibited a trade in English articles within her jurisdiction; but this prohibition violates no national rights or neutral commerce of the United States: yet the English restrictions are still continued, and it is required that France "shall change her internal regulations against English trade before England will change her external regulations against the trade of the United States."

To the objection that the French decrees are not revoked, he says it is a sufficient answer that every American vessel taken under the Milan and Berlin decrees was delivered up as soon as the fact was known. There might have been seizures on other grounds, as for contraband trade; and he refers to the counterfeiting of

American documents in England ; and takes occasion to remark, that to this complaint by the United States no answer had been returned.

He denies that the practice of issuing licenses to trade affords any proof that the decrees are not revoked. These licenses are granted to Americans to trade with France, but the object of her decrees was to prohibit the trade with Great Britain. They merely show that the trade with France is subject to restrictions ; and they may have been intended as a security against the simulated papers. He again refers to Mr. Russel's letters as affording conclusive proof of the repeal of the French decrees.

That the declaration of the French government was a solemn act, and, as such, is entitled to the respect of other governments. A pretension of Great Britain to continue her orders in council until she was satisfied of the practical compliance of France, is incompatible with that pledge which she had given to repeal those orders. Any ground of doubt, as an unauthorised capture by a privateer, might be ground for delaying the repeal, which might thus never take place ; and whatever doubt may exist as to the repeal of the French decrees on the first of November, there can be none that they ceased to operate since the second of February, 1811.

But the question whether and when the repeal of the French decrees took effect is superseded by the novel and extraordinary claim of Great Britain to a trade in British articles with her enemy ; for, supposing the repeal to have taken place to the fullest extent claimed by the United States, it could, according to that claim, have no influence in removing the orders in council.

It is thus impossible to see any thing in the conduct of the British government “but a determined hostility

to the rights and interests of the United States ;” and the aggregate of their complaints is thus forcibly summed up :—

“ Great Britain issued the orders in council on a principle of retaliation on France, at a time when it is admitted that the French decrees were ineffectual. It has since maintained these orders in full force, notwithstanding the pretext for them has been removed ; and latterly, it has added a new condition to their repeal, to be performed by France, to which the United States, in their neutral character, have no claim, and could not demand, without departing from their neutrality—a condition which, in respect to the commerce of other nations with Great Britain, is repugnant to her own policy, and prohibited by her own laws ; and which can never be enforced on any nation without a subversion of its sovereignty and independence.”

Meanwhile, the signs of approaching war continued to manifest themselves. The same state of feeling which had been exhibited in the House appeared in the Senate. Early in December, Mr. Giles, as Chairman of the Committee of Foreign Relations, had introduced bills for completing the existing military establishment, and for raising an additional force. In a long speech in support of the last, he seemed to consider that such additional force should not be less than from thirty thousand to thirty-five thousand men. This was opposed, as too large, by Mr. Anderson, of Tennessee, who stated that the Administration did not wish the new levies to exceed ten thousand men, and intended to rely principally on volunteers in the invasion of Canada. He was supported by his colleague, George W. Campbell ; but the Senate refused to reduce the number proposed, and the bill passed by twenty-six votes to four.<sup>1</sup>

<sup>1</sup> Annals of twelfth Congress, page 85.

On the seventeenth, Mr. Cheyes, as Chairman of the Naval Committee, made a lucid report on the subject of the navy; and after remarking that it would be "neither politic nor practicable to swell the naval establishment to the size of our desires, or of our necessities," but that a gradual increase of it was within the most limited means, and within the obvious policy of the government, they recommend the building of ten additional frigates, of thirty-eight guns each, for which purpose a bill was presented.

When this bill was sent to the House, the debate for and against the war which took place in the Committee of the Whole called forth the Speaker of the House.

Mr. Clay had his doubts about the numbers of the force proposed to be raised: he feared, considering the extent of our country, it was too small for war. Though the whole would amount to thirty-one thousand, yet with deductions for sickness, the number of effective men would not exceed from twenty to twenty-five thousand. If we embarked in war, it was, he thought, sound policy to try to end it at once. The avowed object of our military preparations is Canada, where there are seven or eight thousand British troops, and we should require twice that number.

Though no advocate for standing armies in peace, he was for able and vigorous forces in war to ensure success. He adverted to the libels of travellers on this country; but, though inferior to Europeans in science, our people possessed more political information than any other, and this was a sufficient security against military leaders. Besides, we have a security from the diffusion of our people. If London or Paris were subdued, England or France would fall; but here would not be the like result. Though large cities were captured, the country would

remain free: though the National Government were annihilated, the country would yet be safe. The militia is another security.

He had no objection to debating the question of war openly. It is vain to aim at secrecy. Though the measures of Congress be secretly discussed, they must be openly executed. In answer to the question, What is to be gained by war? he would ask, What shall we not lose by a mongrel state of peace? We now receive a revenue of but six millions of dollars instead of sixteen millions of dollars received before the orders in council.

But some propose to repeal the non-importation act. Could we, he asked, thus violate our solemn pledge? Besides, we should then have an import trade without an export. With no foreign market, we must become bankrupt.

But England is fighting the battles of mankind. Yet, under this pretext, she has trampled on the rights of neutrals. Shall we bear the cuffs and scoffs of British arrogance from chimerical fears of French subjugation? Shall we swallow the potion of British poison, lest we may be presented with the imperial dose? He referred to the increase of British demands. When, he asked, did submission induce an adversary to forbear his encroachments? At first the orders in council were justified on the ground of retaliation. Now they insist on your compelling France to repeal her municipal code.

He imputed the conduct of Great Britain to jealousy of American prosperity. He spoke also of impressment, against which, he said, no language could express his indignation. He denied that the government could not stand the shock of war, or that the present members who should involve the country in war would be followed by others who would make an ignominious peace. He felt

confident that the people would justly appreciate the motives and conduct of their representatives, and would sustain them; but, according to his ideas of right, they should do their duty at all hazards.

Mr. Widgery, of Massachusetts, regarded the militia as the great bulwark of national defence. He was in favor of raising volunteers in preference to regulars, and said that it was not necessary to raise a regular army to take Canada. The militia of New England wanted only authority to do the business. Though there was so much talk of war, he did not expect it. He was, however, willing to raise fifteen thousand regulars, and rely upon volunteers and militia for the rest.

Mr. Boyd made a desultory speech in opposition to the bill, and the expediency of the war.

The bill was then reported to the House, where it subsequently underwent several amendments. During the discussion which ensued, it appeared that Messrs. Sheffey and Randolph, of Virginia, Macon and Sanford, of North Carolina, Stone, of New York, and Harper, of New Hampshire, were opposed either to the principle or the details of the bill; and Messrs. Grundy, Rhea, Perkins, Wright, Smilie, Bibb, M'Kim, Lowndes, Little, and Williams supported it; and on the sixth of January, the bill passed by ninety-four votes to thirty-four.

There was some disagreement between the two Houses as to the amount of force to be raised, or other details, but finally each one receded from the ground it had previously taken, and the bill passed for raising ten regiments of infantry, two regiments of artillery, and one regiment of light dragoons, which received the approval of the President on the fourteenth of January.

The next day Mr. Randolph offered a resolution which authorised the President to employ the regular army,

when not engaged in regular service, and when he thinks the public interest would be thereby injured, "in the construction of roads, canals, or other works of public utility."

This resolution, after producing some sharp debate, was rejected by a large majority — fifteen yeas to one hundred and two nays.

The subject of the volunteer corps was next considered, in the discussion of which the principal point in controversy was whether they could be constitutionally required to serve beyond the limits of the United States.

Mr. Cheves maintained that the National Government possessed that power under the clause of the Constitution to declare war, which opinion he sustained by an elaborate course of reasoning. Mr. Troup, of Georgia, denied the power. Mr. Clay, the Speaker, coincided with Mr. Cheves. After a further debate, in the course of which a large majority refused to decide that the militia cannot be required to perform duty beyond the limits of the United States, the bill authorising the President "to accept and organize certain volunteer military corps," was passed by eighty-seven yeas to twenty-three nays.<sup>1</sup>

The naval establishment then engaged the attention of the House. In a speech<sup>2</sup> which occupied two days, Mr. Cheves discussed the policy of a navy, and showed that the force proposed by the bill which the Naval Committee had introduced was within the resources of the country. His arguments were, throughout, accompanied by estimates founded on authentic data. The force which the Committee deemed competent to the defence of the coasting trade, of the ports and harbors, was twelve seventy-fours and twenty frigates, the cost in building and equipping which they estimated at seven

<sup>1</sup> Annals of twelfth Congress, page 800.

<sup>2</sup> Ibid. page 803.

and a half millions of dollars, and the annual expense at four and a half millions.

The arguments of Mr. Cheves, cogent as they were, were certain to encounter strong opposition, as it had long been a settled maxim with the mass of the Republican party, that a large and permanent navy was against the policy of the United States. These views were now fully and ably presented by Mr. Seybert, of Pennsylvania.

He objected to the cost of a navy, which he maintained to exceed the profits of commerce; then to the inadequacy of any force which we could provide "to combat that of the enemy." He insisted on the difficulty of manning a considerable fleet in the United States, without resorting to impressment. A navy would have the effect of involving us in many wars; and he referred to the downfall of European States once powerful at sea, and said that though, at this time, the navy of England was triumphant in every sea, it must, by its heavy pressure, finally sink her. He feared that any ships we should build would tend only to swell the list of the British navy; as, of the ten hundred and forty-two vessels which she possessed in July, 1811, two hundred and seven were captured from other nations; and that naval victories would prove fatal here as they had proved fatal in other countries. He thought that small vessels best suited the service of the United States. But he was willing to repair and equip the ships we already had.<sup>1</sup>

Mr. M'Kee, of Kentucky, followed on the same side. He showed, by a series of estimates, that the cost of such a navy as was proposed was beyond the resources of the United States. He said that this country was not destined to be a great naval power: that a navy was an instrument

<sup>1</sup> Annals of twelfth Congress, page 823.

of power rather than a means of protecting commerce, in support of which he cited a report in the Virginia Legislature drawn by the present Chief Magistrate: that the expense would fall chiefly on the agricultural class, rather than the class benefited. He objected, also, to the time, when the country was less able to incur the expense, and when they could not be ready for the approaching contest.

Mr. Bassett, of Virginia, was decidedly in favor of a navy. He opposed to the authority which had been cited on the other side that of Mr. Jefferson, in his "Notes on Virginia." He referred to the war of the Revolution to show the value of a navy in national defence. He argued that, great as the cost of a navy might be, the losses from unprotected commerce would be yet greater.

Mr. Mitchell, of New York, was also the advocate of a navy, which he showed was the natural and even necessary consequence of our being a commercial people; and had been looked to by the framers of the Constitution. "To employ an army alone," he said, "would be to fight with one hand tied behind our back. To equip a naval force in aid of the other, is to strike with both hands." He urged that the people would freely incur the expense of a navy, and referred, in conclusion, to the deeds of Rodgers, Decatur, Truxtun, and Preble.

Mr. Johnson, of Kentucky, enforced the arguments of his colleague, Mr. M'Kee. "We will protect commerce, as we have protected it—I would grant letters-of-marque and reprisal, and authorise privateering—I would fortify our seaport towns; station our gunboats and frigates along our coast, to protect us at home." He said that if we must expend more money for the coasting trade, he would offer a substitute for the bill upon the table. He would adopt the plan of the Secretary of the

Treasury (in his report on roads and canals), of opening an inland tide-water navigation from Boston to Georgia, by cutting four canals, which would not cost more than four millions of dollars ; “a navigation more secure in war, or more secure from interruption, than you would receive from your forty frigates and your twenty seventy-four gun ships.”

Mr. Lowndes<sup>1</sup> replied to the members from Kentucky. He said that Mr. Johnson’s canal would not be a fit substitute for the sea which brings our most distant ports into one neighborhood ; and that a conversation with any merchant of Boston or New York would abate his confidence in the utility of his substitute. He showed that the profits of commerce had been greatly underrated by the opponents of a navy. “To render the Union permanent,” he said, “you must show all the States, large as well as small, that it will provide not an army, which they can have without it, but what, without it, they cannot have — an adequate navy.”

He answered Mr. Seybert’s arguments, drawn from the maritime States of Europe, and showed that they had been benefited, not injured, by their navies ; and as to England, while nearly every other government has been overset, she yet rides out the storm. “Her navy has prolonged her independence for two centuries.” He showed that the United States could support a navy, which could and would assert a superiority in the American seas, and pointed out important errors in Mr. Seybert’s estimates. He urged that there would be no difficulty, in war, in obtaining the voluntary services of our sailors ; and pointed out the large force and heavy expense required to give England the command of the American seas.

<sup>1</sup> Annals of twelfth Congress, page 884.

Mr. Law, of Connecticut, was in favor of a navy, not from its relation to the present crisis, "but from a conviction of its general policy;" and he believed it could be accomplished by our ordinary means, without adding new burdens on the people. He showed the intimate connection between agriculture and commerce. They mutually cherish and support each other. But commerce requires protection, which a navy alone can afford. With such a navy as we might have provided without difficulty, there would have been neither Berlin and Milan decrees nor orders in council. He had no idea of building a navy to cope with Great Britain; but, with ten additional frigates, it would afford great protection to our coasts and shores. He said we must not look only to the present time. "We must grow to be a great people, while other nations are mouldering away." He denied that a navy would involve us in wars, which ever will exist among nations whether they have navies or not. He referred to the abundant materials for a navy in the United States; said that its burdens had been greatly overrated; and that England, with the enormous expense of her navy, was never richer than at the present time.

Mr. Roberts, of Pennsylvania, was in favor of adhering to the past policy of the Republican party respecting a navy, and reiterated the arguments which had been urged against such an establishment. "History," he said, "proves to us that maritime power has always excited national ambition to a spirit of conquest and plunder;" and he referred to Athens, Rome, and Carthage, to Venice, and lastly to England herself.

The question then of filling up the blank for repairing the vessels on hand with four hundred and eighty thousand dollars, was carried by a large majority. But on the Chairman proposing to insert ten in the blank as to

the number of frigates to be built, the opposition was renewed.

Mr. Rhea, of Tennessee, urged that these frigates could not be built in time for the present emergency; and that the Chairman had admitted there was not seasoned timber now on hand.

Mr. Smilie was for striking out this section of the bill, as he was "against the country becoming a naval Power."

The Speaker<sup>1</sup> then presented his views, which, he said, did not precisely agree with those of any gentleman who had spoken. He adverted to the past diversity of opinion on this subject—on the one hand, an attempt to precipitate into the evils of naval extravagance; and on the other, an unreasonable prejudice against providing a competent protection to our commerce and maritime rights. He mentioned the "unreasonable jealousy" against the establishment, which had not existed when the Constitution was formed. He spoke of their fears of naval power as chimerical; said that if we wished to avoid foreign collisions, we should surrender our commerce, and abandon the ocean. He considered three degrees of naval power—of which he admitted the first to be beyond our reach; the second, adapted to the defence of our coasts, though not now attainable, he hopes, in less than ten years, to see established; the third, which would prevent any single vessel from blocking up our harbors, was within the compass of our present means. He showed that no part of the United States more demanded naval protection than the mouth of the Mississippi, which formed the outlet for the whole Western country, which then constituted one-fifth of the whole population. He adverted to Cuba,

<sup>1</sup> Annals of twelfth Congress, page 910.

and to the chance of its becoming a British possession, and to the various influences these facts would have on the value of the public lands, and the affections of the Western people. He said that the commercial spirit which the member from New York (Dr. Mitchill) had so strongly depicted, pervades the whole country, which he illustrated by the account of a voyage from Pittsburg to Leghorn, and concluded that a navy would be a new bond of connection among the States.

Mr. Gold, of New York, spoke in favor of the bill, which was then reported to the House by the Committee. The appropriation for repairs again received the votes of a large majority; and on the question of building new frigates, Mr. Williams, of South Carolina, spoke at length in opposition.

The next day,<sup>2</sup> the debate was continued by Mr. Wright, in favor of a navy, and in support of the bill. He was followed by Mr. Quincy,<sup>3</sup> who delivered a well-digested argument on the same side. But while he supported the majority on the present occasion, he took care to show that they must not further expect his concurrence or favor.

His professed purpose was to show the connection between a naval force and the safety, prosperity and existence of our Union. "Among the States," he said, "the only sure and permanent bond of union is *interest*;" and no political connection can be, or ought to be, lasting, which refuses to protect the vital interests of any of the sovereignties which compose it. That this consideration applies with peculiar force to interests that are local, as general interests will commonly take care of themselves. A neglect of these is sure to excite jealousy and discon-

<sup>1</sup> Annals of twelfth Congress, page 933.      <sup>2</sup> January 25th.

<sup>3</sup> Ibid. page 940.

tent. He then shows that commerce is the *leading* interest of more than one-half of the Union, and the *predominant* interest of more than one-third. Thus:

Between the Mississippi and the Potomac, the shipping	
amounts to.....	221,000 tons.
Between the Potomac and the Hudson.....	321,000 "
North of the Hudson.....	882,000 "

The amount of capital, and the number of seamen, may be estimated in the same proportion. The permanency of this interest, he adds, exhibits the "folly and madness" of neglecting its protection. He indulges in bitter taunts against the statesmen who have been guilty of this misplaced economy.

"Maritime rights," he says, "can be maintained only by maritime means." A navy can alone afford the requisite protection; and the extent of the protection ought to be satisfactory to those who receive it. He thinks there should be a ship-of-the-line for the harbor of each of our great cities, and to these should be added frigates and smaller vessels. He considers that two-thirds of one per cent. of the amount of property annually exposed would be sufficient to defray its annual charge. He pays a merited compliment to the hardy enterprize of his countrymen, as well as to their unparalleled success. In advertizing to our future conflicts with the British on the ocean, he uses the language rather of hope than confidence, and reminds the House that "the battle is not always to the strong." In conclusion, he dwells with force and eloquence upon the benefits which a navy would confer on the interests, the character, and the union of the American people.

This copious and interesting subject was discussed two days longer, by Mr. Fisk, of Vermont, Messrs. M'Kee, Bibb, Widgery, and Nelson, all in opposition to the bill.

On taking the question, it was found that the section for building new frigates was lost by three votes. The appropriation of two hundred thousand dollars, for providing materials for ship-building, was carried by eighty-two votes to thirty-seven; and the continuance of the appropriation for three years, by sixty-seven votes to fifty-two. The appropriation of one hundred thousand dollars for a navy-yard was lost by a small majority. A proposition to build four seventy-fours was rejected by four votes; and the bill, thus circumscribed, passed by sixty-five votes to thirty.

The debate on this bill, as well as the votes, showed that the former opinions of the Republican party on the policy of a navy still had a strong hold in the minds of the members, and probably decided the votes of many of the delegation from Pennsylvania, and the Southern States, and all of the members from Kentucky, except Henry Clay.

Having thus seen the spirit of resistance to British aggressions which existed in the National Legislature, and the character and extent of the preparation it was then willing to make, let us now advert to some other proceedings of Congress during the preceding discussions.

This being the year for a new apportionment of members under the third census, there was the same diversity among the members as heretofore, respecting the ratio to be adopted; each member preferring that which, without much changing the present number of the House, would leave to his own State the smallest fraction of the number required to choose a member.

The ratio proposed varied from thirty-five thousand to forty thousand; but the House finally, by a large majority, adopted that of thirty-seven thousand.<sup>1</sup>

<sup>1</sup> Annals of twelfth Congress, page 366.

The Senate, by amendment, changed the ratio to thirty-five thousand, which, on a conference between the two Houses, was finally adopted, by which the number of the House of Representatives was increased from one hundred and forty-two to one hundred and eighty-three.<sup>1</sup>

On the eighteenth of December, a message was received from the President, communicating to both Houses a letter from Governor Harrison, of the Indiana Territory, containing an official account<sup>2</sup> of the recent battle on the Wabash, in consequence of which, a bill was passed for the relief of those who had suffered in this campaign.

The previous question, which precludes all further debate, having been a subject of annoyance and complaint with the minority, Mr. Nelson proposed so to alter the rules as, when the previous question is ordered, to permit any member who had not already spoken to speak once.<sup>3</sup>

The House being thus called upon to choose between two opposite inconveniences, decided that it was better to risk the abuse by the majority, of preventing debate, than the abuse by the minority of preventing a decision; and the proposed amendment of the rules was rejected by seventy-six votes to thirty-six.

On the thirtieth of December, both Houses of Congress, by resolutions to wear mourning for a month, testified their sympathy for those who had perished by the burning of the Theatre of Richmond, in Virginia, on the twenty-sixth instant. Among the sufferers, amounting to above seventy, were the Governor of the State, and Mr. Venable, formerly a member of the House, with many other persons of distinction.

Mr. Bacon, Chairman of the Committee of Ways and

<sup>1</sup> Annals of twelfth Congress, page 85.

<sup>2</sup> Ibid. page 2113.

<sup>3</sup> Ibid. page 576

Means, on the twentieth of January communicated<sup>1</sup> to the House a letter from the Secretary of the Treasury, in answer to inquiries made by the Committee of the probable amount of revenue required in the event of war; of the probable amount of the receipts from the impost; a specification of the duties thought practicable and advisable; with other questions of a kindred character.

In Mr. Gallatin's reply, dated the tenth of January, 1812, he said, after answering some minor points, that, in case of war, it would be unsafe to count upon receiving more than two millions five hundred thousand dollars from the impost. The whole duties on tonnage, merchandize, and salt, and the sales of public lands, he estimated at six millions, leaving a deficiency of three millions six hundred thousand dollars to meet the expenditure of 1813.

An annual loan of ten millions during the war, with the deficiencies of revenue, would require, for interest and charge, five millions a year.

He explains why taxes, now considered necessary, were not so deemed in his annual report of December, 1808.

Of the required five millions, he proposes to raise three millions by a direct tax, and two millions by indirect taxes. He shows that the direct tax will not press heavily on any part of the country. He suggests that "the systems of taxation respectively adopted by the several States, matured, modified and improved as they have been by long experience, will generally be found best adapted to the local situation and circumstances of each State; and certainly are most congenial with the feelings and habits of the people. He therefore recom-

<sup>1</sup> Annals of twelfth Congress, page 847.

mends that the direct tax should be laid and assessed upon the same objects as the direct taxes in the States.

For the indirect taxes he recommends those formerly levied by the United States, which were distilled spirits, refined sugar, licenses to retailers, auctions, carriages, and stamps, on the collection of which he makes suggestions. He thinks there would be no difficulty in borrowing ten millions a year during the war, and supposing the amount borrowed to be fifty millions, and the peace revenue to be fifteen millions—then, allowing three millions for the interest of the fifty millions, and nine millions for the ordinary expenses of the government, there would be three millions left for the redemption of the debt. He recommends that the loans be made irredeemable for ten years, and thinks that the whole of the debt, on the supposition that it will not exceed fifty millions, and that the additional revenue be provided, may be redeemed within fifteen years after the peace.

While he has thus presented the financial difficulties of the country without disguise, he says there are none which are insurmountable, or even discouraging; and that the United States, by preserving unimpaired their public credit, will be able to persevere in the contest until an honorable peace is obtained.

The President sent a message to Congress on the seventeenth of January, 1812, in which he communicates to Congress a letter to Mr. Monroe from Mr. Foster, in which, by way of repelling some prevalent rumors that the hostilities of the Indians on the Wabash had been fomented by the British, he says, that Sir James Craig, the Governor-general of Canada, had indicated to the American Secretary of State, through Mr. Morier, the Spanish *Charge d'Affaires*, his suspicions that some of the Indian tribes meant to go to war with the United

States, and that he was making every exertion to prevent their attempts. He authorises Mr. Morier to make his letter public, by way of correcting mistaken notions on the subject.

Mr. Monroe, in reply, merely says, "If the Indians desired any encouragement in their measures of hostility against the United States, it is very satisfactory to the President to receive from Mr. Foster assurances that no authority or countenance was given to them by the British government."

A bill for arming and equipping the militia, which had been reported in December, was now taken up. It proposed to divide the militia into three classes.

The first class to consist of those who were between eighteen and twenty-one years of age, who were not to do duty out of their native State, and were not to continue in service more than three months at a time.

The second class to consist of those who were between twenty-one and thirty-one, who might be ordered to any part of the United States, but were not required to serve more than twelve months at a time.

The third class comprehended those who were between thirty-one and forty-five, subject to duty in their State, or any adjoining State or Territory, whose compulsory service was also limited to twelve months.

Every citizen, on arriving at the age of eighteen, was to be furnished with a complete stand of arms.

This bill gave rise to a long and warm discussion, and it was opposed as well for what it omitted as what it contained, but especially on account of its principles of classification. It finally passed by sixty-seven votes to fifty-one:<sup>1</sup> but the bill having been returned from the Senate with amendments, was never acted on afterwards.

<sup>1</sup> Annals of twelfth Congress, page 1081.

A proposition brought forward about the same time by Peter B. Porter, to authorise the President to raise a provisional army, was rejected by sixty-two votes to thirty-five.<sup>1</sup>

While there appeared to be so large a majority in the House in favor of war, there was not the same approach to unanimity in the important preliminary of providing the money to carry it on. The bill reported by the Committee of Ways and Means, and which was framed in conformity with Mr. Gallatin's suggestions, gave rise to much discussion, and indicated great discordance of local feeling, particularly the tax on distilled spirits; but all the war taxes recommended by the Committee of Ways and Means were successively passed in the House by majorities of about two to one, and the whole together received the concurrence of fifty-six votes to thirty-four, and the Committee were directed to report the same by bill; but it would seem, from the subsequent course of the House, that the majority thought it more prudent to rely on borrowed money to carry on the war, at least in its early stages, than to burden the people with taxes; and, accordingly, a bill authorising a loan of eleven millions of dollars was passed on the twenty-fifth of February, by ninety-two votes to twenty-nine.<sup>2</sup>

Mr. Lloyd, of Massachusetts, a spirited and sensible merchant of Boston, though a decided opponent of the present and past Administration, did not, in the warmth of his party attachments, forget the duties of patriotism, but, like Mr. Quincy, now came forward to give a qualified support to the war measures of the majority.

On the twenty-seventh of February, in a long, argumentative speech in the Senate, in which he was not sparing of his strictures on the errors of his own govern-

<sup>1</sup> Annals of twelfth Congress, page 1069.

<sup>2</sup> Ibid. page 1086.

ment, the outrages of England, and the still greater outrages of France, he proposed an amendment to the navy bill, by which twenty additional frigates were to be immediately built. These, he maintained, were a greater number than the British navy could blockade; and, having a practical knowledge of the prowess and seamanship of his countrymen, he even then ventured to assert that if an American frigate were placed alongside a British vessel of equal force, the chances of success would be equal. His amendment was, however, rejected by thirteen votes to nine.<sup>1</sup>

On the ninth of March, a communication<sup>2</sup> to both Houses was received from the President, which created a great sensation throughout the Union. It states that the British government, at the very time it was making amicable professions, and engaged in pacific negotiations, had a secret agent in some of the States, and especially in Massachusetts, who was employed in fomenting disaffection, "for the purpose of bringing about resistance to the laws, and eventually, in concert with a British force, of destroying the Union, and bringing the Eastern part thereof into a political connection with Great Britain." It concludes that, besides the effect this procedure will have on the public councils, it cannot fail to endear to the hearts of all good citizens "that happy Union of these States which, under Divine Providence, is the guaranty of their liberties, their safety, their tranquillity, and their prosperity."

The documents sent by the President as evidence of the intrigue he mentions, consist of numerous letters from the secret agent, John Henry, to Sir James Craig, relative to the state of the political parties in the United States, and especially in New England, evidence that he

<sup>1</sup> Annals of twelfth Congress, page 164.

<sup>2</sup> Ibid. page 1162.

was employed by Sir James Craig, who wrote him a letter of instructions in February, 1809, authorising him to be the medium of any confidential communication from disaffected persons to the British government, through him, Sir James Craig: that he wrote fourteen letters to Sir James from the tenth day of February to the twelfth of June—a little after the adjustment of the affair of the Chesapeake by Mr. Erskine; and in his fourteenth letter (of the twenty-fifth of May) he says: “I beg leave to suggest that, in the present state of things in this country, my presence can contribute very little to the interests of Great Britain. If Mr. Erskine be sanctioned, in all he has conceded, by His Majesty's Ministers, it is unnecessary for me, as indeed it would be unavailing, to make any attempt to carry into effect the original purposes of my mission.” After this, it seems, he was recalled to Canada.

It further appears that he made the services he had thus rendered the ground of an application to the government, when in London, for remuneration, either in money, or a lucrative office; and though the English Minister, Lord Liverpool, did not recognize his claim, he spoke favorably of his ability and judgment to the Governor-general of Canada, on the “occasions mentioned in his memorial, and of the benefit the public service might derive from his active employment in any public situation in which you should think proper to place him.”

In his memorial to Lord Liverpool, he states the object of his mission to have been “to promote and encourage the Federal party to resist the measures of the General Government, to offer assurances of aid and support from His Majesty's Government of Canada, and to open a communication between the leading men engaged in that opposition and the Governor-general, on such a footing

as circumstances might suggest; and finally, to render the plans then in contemplation subservient to the views of His Majesty's Government."

Mr. Henry came to the United States in December, 1811, after his memorial to Lord Liverpool, which appeared to have been unsuccessful; and on the twentieth of February, 1812, he wrote a letter to Mr. Monroe, in which he transmits to him the documents and correspondence since communicated to Congress; alleging that he is influenced by a desire to produce unanimity in the United States, take away the confidence of the people of England from its present Ministry, and also by a just resentment of the perfidy and dishonor of those who had employed him — though, in fact, these disclosures were made in consequence of a large pecuniary reward<sup>1</sup> previously agreed upon, and paid him out of the contingent fund.

The day after this communication was received, Mr. Lloyd, of Massachusetts, offered a resolution, requesting the President to lay before the Senate the names of any persons in the United States who have in any way entered into, or most remotely countenanced the project or the view for which John Henry was, in the year 1809, employed by the Governor-general of Canada. Twenty-four members voted in the affirmative, and nine in the negative. All the members from New England voted for the resolution.

When, some months afterwards, this subject was brought to notice, in the House of Lords, by a member who considered the imputed project dishonorable on the part of the British government, Lord Liverpool affirmed that Mr. Henry had never been employed by the Government; but that, after the affair of the Chesapeake, when

<sup>1</sup> Fifty thousand dollars.

war seemed to be very probable, Sir James Craig had sent Mr. Henry to Boston, for the purpose of obtaining a knowledge of the sentiments in the different States, knowing he was well acquainted with the Eastern States: that much which appeared in the newspapers on this subject was false, and there was no evidence that Sir James Craig entertained the unfair or improper views imputed to him. Lord Sidmouth said he had never known any case which had been made the object of so much exaggeration: that the Government knew nothing of those measures at the time, and Sir James Craig had acted only in contemplation of an immediate attack on the Canadas; and if he had taken any step that was not strictly justifiable by the law of nations, it was from error, and not from any purpose of violating it. A similar denial was made by Lord Castlereagh in the House of Commons.

Two days after the President's communication, the British Minister wrote to Mr. Monroe,<sup>1</sup> and disclaimed all personal knowledge of Mr. Henry's mission, or of the transactions he refers to; and expresses his conviction that, "from what he knows of those branches of His Majesty's Government with which he has intercourse, no countenance whatever had been given by them to any schemes hostile to the internal tranquillity of the United States. He hopes the American Government will take into consideration the character of the individual who has made the communication, and suspend their judgment until the circumstances shall be made known to His Majesty's Government."

This affair seemed, for the time, to give an accession of strength to the war party; and Mr. Macon, in particular, said "I have made up my mind on the subject, and

<sup>1</sup> Annals of twelfth Congress, page 1211.

whenever we are ready to declare war, I shall vote for it.”<sup>1</sup>

A bill was passed to annex West Florida to Mississippi.

On the first of April, a confidential message was received from the President, recommending that an embargo should be laid for sixty days. It was opposed principally by Mr. Randolph, and warmly supported by the Speaker, who dwelt on the patriotic resolutions of no less than fourteen of the State Legislatures. On the following day it passed by seventy-three votes to twenty. In the Senate, the time was extended to ninety days, and it thus passed the House on the third of April, by a small majority, but not without vehement opposition from Messrs. Quincy and Randolph.

Though the avowed purpose of the embargo was a preparation for war, it must not be inferred that all who voted for the preliminary measure had made up their minds to vote for immediate war. It was generally believed by the best informed, that both the President and Mr. Gallatin were in favor of temporizing measures a while longer, and of trusting to those chances and changes which time is ever bringing in human concerns, and sometimes most unexpectedly. They were convinced that Great Britain did not desire war with the United States, if peace could be preserved without much concession; and they still indulged hopes that the commercial restrictions of the United States would eventually induce her to rescind her illegal orders. But there was an ardent, energetic band, who thought that the honor of their country required it to go to war, unprepared as it was, rather than longer submit to the domineering of England, which, moreover, seemed to increase with

<sup>1</sup> Annals of twelfth Congress, page 1191.

American forbearance. These were Mr. Clay, the Speaker, Mr. Porter, of New York, Mr. Grundy, of Tennessee, and Messrs. Cheves, Calhoun and Lowndes, of South Carolina, a triumvirate which, for talents and weight of character, no delegation has probably ever equalled. The same party in the Senate was headed by Messrs. Giles and Campbell, of Tennessee, and the whole carried with them most of the members from the South and the West, with no small proportion of those from the Middle States, and they finally overcame the hesitation of the President. This concurrence of views must have taken place before the eighteenth of May, when the President received the *caucus* or informal nomination for re-election, and when he also received the cordial support of the war party. In truth, whatever were his hopes of peace, or his doubts about our fitness for the contest, he must, for some months, have been convinced that war was inevitable, if Great Britain did not rescind her orders in council.

The embargo was soon followed by a bill to prohibit, under heavy penalties, the exportation of specie, and every kind of merchandize, domestic or foreign, during the embargo.

In the course of the month of April, Congress passed acts organizing a corps of artificers, making further provision for the corps of engineers, and discussed other questions preparatory to war; and in the first days of May were occupied in debate on the repeal of the embargo, for which there were several petitions, principally from New York. The repeal was earnestly urged by Mr. Bleecker, from that State, and Mr. Randolph, and as warmly opposed by Messrs. Grundy and Calhoun. The question of postponing the subject of the petitions to the

fourth of July was decided in the negative by fifty-seven votes to thirty-one.<sup>1</sup>

On the twenty-ninth of the month, Mr. Randolph offered a resolution that, under existing circumstances, it was inexpedient to resort to war against Great Britain. His resolution was prefaced by a long speech, in which his purpose was rather hinted than distinctly announced. He was therefore repeatedly called to order, and as often appealed from the Speaker's decision, until he was finally required to submit his motion in writing.

After some discussion of the rules of order, the question was taken on the consideration of the resolution, and lost by seventy-two nays to thirty-seven yeas.<sup>2</sup>

On the first of June, a message<sup>3</sup> was sent to Congress, then in session, from the President, on the subject of the affairs of the United States with Great Britain. He begins with advertizing to the habit of British cruisers searching American vessels, and taking off American citizens, not by virtue of the law of nations, but of a municipal prerogative asserted over British subjects. They thus exercise a right of self-redress which they do not possess as belligerents, since captured property must be condemned by a competent court. Under this practice, thousands of American citizens have been torn from their country, and made to risk their lives in the battles of their oppressors; and the offers of the American Government to enter into arrangements by which British subjects might be recovered have been disregarded.

British cruisers have also violated the rights and peace of our coasts, and have shed American blood within our territorial jurisdiction; and the offenders have escaped all punishment.

<sup>1</sup> Annals of twelfth Congress, page 1413.

<sup>2</sup> Ibid. page 1470.

<sup>3</sup> VIII. State Papers, page 362.

Under pretended blockades, American commerce has been plundered in every sea, and these blockades being declared in force from their dates, have had a retrospective effect.

To our remonstrances against this innovation, the first reply was that it was reluctantly adopted by Great Britain, as a necessary retaliation on the decrees of her enemy. She was reminded that her own prior blockades, without an adequate force, were a bar to that plea; and, moreover, that executed edicts against millions of our property could not be retaliation on edicts impossible to be executed.

When deprived of this flimsy veil by the repeal of the French decrees, instead of a correspondent repeal of their orders, according to their solemn pledge, they formally avowed their determination to persevere in them until the markets of their enemy should be laid open to British products. They, moreover, demanded, as a prerequisite to a repeal of their orders, that a formality should be observed which is nowise necessary to their termination; and they even called on the United States for a direct disavowal of the pretensions advanced by the French Government.

It has become certain that the commerce of the United States is to be sacrificed to the monopoly she covets for her own trade and navigation. "She carries on a war against the lawful commerce of a friend, that she may the better carry on commerce with an enemy."

The United States, rather than resort to war, have withheld from Great Britain the benefits of a free commercial intercourse, and she had it in her power to subject her enemy to the exclusive operation of the like restrictions. To these appeals she has been still inflexible, when there was reason to expect that the repeal of

her orders would have led to a war with France. He then exposes the inconsistency between their professions and their practice, in refusing to revoke the blockade of May, 1806, which had been made the ground of the Berlin decree, and on the revocation of which the French Government professed itself willing to revoke that decree. But the British Government would neither rescind the blockade, nor declare its non-existence.

He adverts to the disavowal of the arrangement made with Mr. Erskine as evidence of hostility to the commercial rights and prosperity of the United States; and alleges that, at the very time of this arrangement, a secret agent of that government was employed in intriguing for the subversion of this government, and a dismemberment of the Union.

There is much reason for believing that the hostilities of the Indian tribes have been prompted by that government.

Such are the indignities and injuries heaped upon this country, which the most untiring efforts at conciliation and unexampled forbearance have been unable to avoid. But our moderation and conciliation have tended only "to encourage perseverance, and to enlarge pretensions." Our citizens are impressed on the common highway of nations. Our vessels, wrested from their destination, are confiscated by prize-courts acting under arbitrary edicts. In a word, "we behold, on the side of Great Britain, a state of war against the United States; and, on the side of the United States, a state of peace towards Great Britain." Whether these States "shall continue passive under these progressive usurpations," or shall oppose force to force in defence of their rights, is a question which the Constitution has wisely confided to the Legislature.

He adds, in conclusion, that the French Government, since the revocation of its decrees, has authorised illegal captures by its privateers and public ships, and has committed other outrages on our citizens; and that no indemnity has been provided, or satisfactorily pledged for their former spoliations. He forbears to recommend definitive measures as to that nation, as the discussions now carried on by our Minister at Paris will enable Congress to decide with greater advantage on the course due to the rights and honor of the country.

Among the documents accompanying the President's message was a letter from Mr. Foster to Mr. Monroe, complaining that some seamen belonging to a British vessel-of-war had been seduced from the service by citizens of the United States, which he evidently means as a set-off against the impressment of American seamen by the British.

Mr. Monroe says, in reply, that these men were not induced to desert by any of the public authorities; and if done by private individuals, it is a case which the law does not reach either here or in Great Britain.

He further states that a similar desertion took place last year from an American frigate, in which no redress was afforded, though the deserter took refuge on board a British ship-of-war. He adds that "it is not possible for the United States to discriminate between their native and naturalized citizens, nor ought the British Government to expect it, as it makes no such discrimination itself."

The British Minister, finding that Congress, reflecting the sentiments of the American people, were resolved no longer to submit to British aggression, determined to make one more effort to avoid hostilities.

On the thirtieth of May, he addressed a long letter to

Mr. Monroe, in which he insists that there is such convincing evidence afforded by the report of the Duke of Bassano, of the tenth of March, that the French decrees have not been revoked, and that their effect has been lately extended and aggravated, that he expects it will be communicated by the President to Congress without delay.

He urges that there is now proof that the revocation was only conditional; that, therefore, Great Britain cannot rescind her orders in council; that the motives and policy of Bonaparte must be evident to the United States; and that his conduct must excite their indignation.

He complains that the renunciation of the blockade of May, 1806, which was not required when Mr. Erskine made his arrangement, should be insisted on now; and he can account for the fact only by "a disposition in America to countenance France in requiring the discontinuance of this blockade, and the principles on which it rested, as the condition *sine qua non* of the repeal of the French decrees. "It seems to have become an object with America only because it was prescribed as a condition by France." He argues that America cannot now favor such pretensions, and that Great Britain must reject the spurious doctrines promulgated in Bassano's report—as that free ships make free goods; and she expects from the United States "an unreserved and candid disclaimer of the right of France to impose on her and the world this new maritime code." He makes strong professions of the desire of the Prince Regent to restore harmony between the two countries, and that Great Britain is disposed to conciliate America as far as may be done, consistent with the principles essential to the preservation of the power and independence of the British monarchy.

Before Mr. Monroe answered Mr. Foster's letter, there

was some further correspondence between them relative to deserters from British ships-of-war, and the impressment of American seamen, in which the British Minister endeavors to show that Great Britain has the like ground of complaint as the United States on this subject; while the object of the American Minister is to show material points of difference; and he suggests that the orders given to discharge Americans impressed on board British ships-of-war were of far less efficacy than orders not to impress them.

On the sixth of June, he replied to Mr. Foster's letter of the thirtieth of May. He re-states the ground on which the United States had a right to expect a repeal of the British orders in council, not conditional, but absolute.

To repel the charge that the demand made on the British Government to repeal its orders is made in concert with France, he refers to Mr. Pinkney's letter to Lord Wellesley, of the fourteenth of January, 1811. The report of the French Minister (M. Bassano), to which he refers, affords no proof that France meant to violate its engagements with the United States: "it evidently refers to the continental system."

On the third of June, 1812, the Committee of Foreign Relations, by Mr. Calhoun, their Chairman, in the House of Representatives, made a report<sup>1</sup> on the causes and reasons for war with Great Britain.

They begin by saying it will be more difficult to justify their past forbearance than their present purpose to vindicate the rights of the nation by war. They thus defend this forbearance, from the peculiar circumstances of the United States. But forbearance is no longer a virtue. They have endured the hostile aggression on

<sup>1</sup> Annals of twelfth Congress, page 1546.

their rights by Great Britain for more than seven years, as early as 1804. The British Government was invited to enter on a negotiation on all the points in controversy between them. It was accepted, and while the negotiation was going on, an attack was unexpectedly made on an important branch of American commerce. It was assailed on pretexts as absurd as unjust, and unwarranted by the established law of nations. In 1793, a similar attack was made, which nearly involved the two countries in war. The insufficiency of this pretension is shown by the Committee. From this period the British Government has proceeded in a course of "encroachment on the rights and interests of the United States," which are successively noticed, in the form of blockades and orders in council, by one of which (the eleventh of November, 1807), positive and direct war was declared against the United States; all commerce to them was forbidden, and every flag driven from the ocean or subjected to capture and condemnation that was not subservient to the British policy, by paying it a tribute, and sailing under its sanction.

They then speak of the impressment of American seamen, which, while it continues, is utterly inconsistent with the independence of this nation. All of these injuries have been aggravated by the insults and indignities attending them.

They have also excited the hostilities of the Indian tribes. They have, by a secret mission, sought to overthrow our Constitution, and to dismember the Union.

The Committee then examine the pleas by which the British Government undertakes to defend its orders in council, and show that its aggressions were prior to those of France.

They properly remark, "It is no justification of the

wrongs of one power, that the like were committed by another." That the United States ever consented to discuss with either Power the misconduct of the other, is a proof of their moderation and love of peace: but the time has arrived when this system of reasoning must cease.

The Committee do not hesitate to declare that France has greatly injured the United States; but that is a "concern which the United States will look to and settle for themselves."

The ruling policy of Great Britain towards this country arises from commercial rivalry. She manifestly considers that their growth and prosperity are incompatible with her interests. The contest thus forced on the United States is one for sovereignty and independence. The Committee therefore advise resistance by force, in which the Americans of the present day will prove to her and the world that "we have not only inherited the liberty our fathers gave us, but also the will and power to maintain it."

A few days after this report, Mr. Foster addressed another note to Mr. Monroe, in which he again disclaims all agency of his government in exciting the hostilities of the Indians, and sends him copies of letters from Sir James Craig to the British Secretary of State, in which he speaks of his efforts to prevent these hostilities.

Mr. Monroe replied that he feels it his duty to transmit to him such information as has been received on this subject. From these it appears that whatever might have been the disposition of His Majesty's Government, the conduct of its subordinate agents has tended to excite the Indians to hostilities against the United States; and in intimating the comparative evidence, it is impossible not to recollect the conduct of Sir James Craig in the

communication lately made to this government, and which it appeared was approved by Lord Liverpool.

A great mass of testimony from the Governors of territory and other agents of the United States, sent to the State Department, shows that British officers and agents in Canada had been very active in fomenting a hostile spirit in the Indians against the United States. Besides, on the thirteenth of June, a committee of the House made a report on this subject, alleging that the agency of British subjects in Canada had been very active and zealous in the same purpose.

In conformity with what had been the settled purpose of a majority in Congress for some time, and which the honor of the nation seemed imperiously to require, Congress passed a bill, on the eighteenth of June, 1812, declaring war against Great Britain, by a majority, in the Senate, of fourteen to thirteen; and in the House, of seventy-nine to forty-nine, of whom but twelve were south of Delaware, and no one from the States of South Carolina, Georgia, Kentucky, Tennessee, or Ohio. The next day the President published his proclamation of the fact; and thus these States, after an interval of near thirty years, were again engaged in a deadly contest with the country from which they had their origin, in vindication of their violated rights. But for this contest, as well as the first, it was soon seen that they were not adequately prepared.

The whole naval force of the United States, at this time, consisted of ten frigates, of which three were of forty-four guns, one corvette of twenty-six guns, two sloops-of-war, three brigs, four schooners, and four bomb-vessels — making twenty-four vessels in all — and one hundred and seventy gunboats.

The minority in the House of Representatives who

voted against the war, issued an address to the people of the United States, in which they set forth, at great length, their reasons for being opposed to a war with Great Britain. It was signed by thirty-four members, a large majority of whom were from the north of the Potomac.

While Congress was preparing to appeal to the great arbiter of national disputes, some proceedings in that body and elsewhere, which have been pretermitted, are not undeserving of notice.

A law having passed at this session, giving the President authority, in case of the necessary absence or disability of a District Judge, to appoint a Judge of the Supreme Court to supply his place, the President returned the bill with his objections, which were fourfold.<sup>1</sup> First. Because distinct duties being, by this act, assigned to the Supreme Court, he could be appointed only by the Executive power. Second. Because, by the existing laws, an appeal would then lie from the same Judge to himself. Third. Because no compensation was allowed the Judge for his additional services. Fourth. Because "the bill introduces an unsuitable relation of members of the Judiciary Department to a discretionary authority of the Executive Department."

On a reconsideration, there were but twenty-six in favor of it, to seventy against it — so that the bill was rejected.

The inhabitants of Caraccas having suffered by a recent earthquake, Mr. Macon offered a resolution for their relief, that the President cause provisions to be purchased and exported to some port in Caraccas for the use of the sufferers, the quantity to be determined by the Committee of Commerce and Manufactures. The resolution passed unanimously. A similar proposition to relieve the inhabi-

<sup>1</sup> Annals of twelfth Congress, page 1251.

tants of Teneriffe was rejected by fifty-seven votes to forty-seven.

As this disbursement of money comes within no one of the specific powers assigned to Congress, it must be referred to the general incidental power which every government has been considered to have over its revenue and treasury. This is, however, one of the contested questions in the construction of the Federal Constitution.

The death of the Vice-President, the venerable George Clinton, of New York, took place at Washington, on the twenty-third day of April. He had gone through life highly esteemed both for his private and his public virtues.

Louisiana, with its territory considerably enlarged, was admitted into the Union at this session.

General Wilkinson was tried by a court-martial in December, and was acquitted of all the charges which had been brought against him. The sentence was approved by the President.

The President transmitted to Congress, in December,<sup>1</sup> the official account of the battle on the Wabash, which deserves a more particular notice, less from its intrinsic importance than from its influence on the fortunes of the American Commander-in-chief.

In 1811, many murders and other outrages having been committed by the Indians on the Wabash, under the influence of a Shawanese who styled himself "The Prophet,"<sup>2</sup> measures were taken to quell them; for which purpose the militia of Indiana, and a regiment of infantry, commanded by Colonel Boyd, were ordered to march

<sup>1</sup> Annals of twelfth Congress, page 2113.

<sup>2</sup> One of those men who, by means of superior cunning, profit by the credulity and superstition of the Indians to obtain for themselves power and influence.

under General Harrison to the Prophet's Town, to demand a restoration of the plunder in his possession. These troops had arrived within four miles of the Prophet's town before the Indians were apprised of their approach, when one of their chiefs proposed that General Harrison should encamp near them until morning, at which time the Prophet would enter into a treaty of peace. General Harrison acceded to the proposal, and the troops were encamped in line of battle, with orders to keep themselves ready for action. The precaution proved to be a wise one. At four o'clock in the morning they were attacked with great fury by the Indians, but the assailants were soon dispersed by the bayonet. The morning was quite dark, and the troops could be distinguished only by the watch-word, or the flashes from the muskets. By means of several vigorous charges, the savages were completely routed. At the dawn they were pursued, and many of them were overtaken and slain. Fifty-three Indians were found lying dead about the encampment, and their loss in killed and wounded was estimated to be one hundred and fifty. Of the United States regiment, seventy-seven were killed and wounded. The whole loss was one hundred and eighty-seven. Much of the success in this action is due to Colonel Boyd, who had served in the Mahratta service in India. The troops then returned to Fort Harrison, in Indiana, and the militia to their homes. This action is commonly known as the Battle of Tippecanoe, and was the basis of General Harrison's subsequent military reputation.

Before many months had elapsed, the Prophet, in connection with Tecumseh, his brother, an Indian of more than ordinary ability, threatened to renew hostilities with the United States.

The feelings of the great mass of the American people on the subject of the war were strongly manifested in Baltimore, soon after the Declaration, though in a most exceptionable mode. A newspaper there printed, called "The Federal Gazette," had been most violent and bitter in denouncing the Administration, and those who had taken the lead in hostility to Great Britain. This press was, on the twenty-second of June, violently assailed by a mob, which, with other excesses, pulled down the printing-office, and compelled the editor, Mr. Hanson, to take flight. Mr. Hanson and his friends, confiding in the supremacy of the law, determined to re-establish the paper, and it was accordingly revived. But thinking it probable that the office would be again attacked, the upper part of the house, now Hanson's residence, was fortified, provided with arms and ammunition, and two officers of the Revolution volunteered to assist in its defence.

A Gazette was issued the next morning, severely admonishing on the civil authorities of Baltimore. In the evening, the house was attacked by boys throwing stones at the windows, to which firing, apparently with blank cartridges, was returned from the house. The attacks on the house becoming more violent and threatening, from an increasing crowd, ten or twelve shots were fired from the House, by which several persons were wounded, some dangerously. Soon after, one man was killed. A field-piece was then brought up, when, by the interposition of some of the citizens, the persons in the house surrendered to the civil authority, and agreed to go to jail, to answer the charges against them.

That night the jail was broken open, and the prisoners were subjected to the insults and violence of the infuriated mob. Some were severely beaten; General Lin-

gen was killed; and others only escaped by feigning death.<sup>1</sup> The city authorities discharged their duty so feebly and insufficiently, as to convey the idea to the mob and others that they did not cordially disapprove these outrages.

A natural reaction was produced, and a revolution in the politics of Maryland was attributed to the excesses of this Baltimore mob.

Let us now see how the relations of the United States with the great belligerents of Europe were affected by the war.

Mr. Madison, desirous of restoring peace, which was so essential to the prosperity of his country, soon after the declaration of war instructed the American *Charge d'Affaires*<sup>2</sup> at London to propose to the British Government an armistice for fifty days, or other the shortest time which that Government would assent to; and to induce it to discontinue the impressment of American seamen, he might give assurance that Congress would pass a law prohibiting the employment of British seamen in American vessels, public or private.

Mr. Baker, on behalf of the British Government, on the tenth of August, informed Mr. Monroe<sup>3</sup> that the British orders in council, according to the despatches to Mr. Foster in June, would be repealed on the first of August, to be revived on the first of May, 1813, unless the conduct of the French and the American Governments should render the revival unnecessary.

Mr. Russel accordingly made the proposal to Lord Castlereagh, who rejected the proposition; and he expressed surprise that the United States should demand, as a preliminary to the suspension of hostilities, that the

<sup>1</sup> II. Niles's Register, page 373.

<sup>2</sup> Annals of twelfth Congress, page 1174.

<sup>3</sup> Ibid. page 1176.

British Government should “desist from its ancient and accustomed practice of impressing British seamen from merchant-ships of a foreign State.” His Government was then ready, as heretofore, to discuss any proposition which aimed to check abuses in the exercise of the right, or which would better accomplish the object of impressment.

Before Mr. Russel took his leave, he informed Lord Castlereagh<sup>1</sup> of his subsequent instructions, by which he was authorised to propose a *convention* for the suspension of hostilities, by commissioners to be forthwith appointed, with full power to form a treaty on the several points in controversy; this suspension of hostilities to comprise the discharge of the American seamen already impressed, the principles of future blockades, as well as the revocation of the orders in council.

Lord Castlereagh replied that Mr. Russel’s last proposition being regarded as substantially the same as the one he had before made, the Prince Regent could not accede to it. In his conversations with Mr. Russel, he dwelt on the practical difficulties of the subject of impressments, which he thought the American Government did not seem aware of; and he said that Mr. King had construed the views of the British Minister on this subject too favorably. “You are not aware,” he added,<sup>2</sup> “of the great sensibility and jealousy of the people of England on this subject; and no Administration could expect to remain in power that should consent to renounce the right of impressment, or to suspend the practice, without the certainty of an arrangement which should obviously be calculated most unequivocally to secure its object.”

Thus, the early efforts of Mr. Madison to suspend hostilities proved unavailing.

A cessation of hostilities was also proposed to Mr.

<sup>1</sup> Annals of twelfth Congress, page 1187.

<sup>2</sup> Ibid. page 1193.

Monroe by Admiral Warren,<sup>1</sup> commanding on the Halifax station, but it was declined by Mr. Monroe for several reasons—one was, that the conditions proposed exceeded the power of the President.<sup>2</sup> He added, that the American Government would readily agree to suspend hostilities on the conditions which he specified, and which were the same as had been proposed by Mr. Russel.

The relations with France wore a more favorable aspect after the declaration of war against her great enemy; but even there, too, we find ground of national humiliation.

On the first of May, Mr. Barlow,<sup>3</sup> the American Envoy to France, wrote to the Duke of Bassano that the British Government urged, as the cause of their not revoking their orders in council, that the Berlin and Milan decrees were not revoked. He asks, therefore, of the French Government to publish an authentic act declaring that revocation relative to the United States, and that those decrees have not been applied to them since the first of November.

The Duke of Bassano expresses his surprise at Mr. Barlow's doubts about the revocation of the Berlin and Milan decrees. He sends to the Envoy, among other documents relative to the subject, the Emperor's decree of the eleventh of April, 1811, in which he formally announces the revocation, in consequence of the non-intercourse act of Congress of the second of March, 1811.

In the conversation which preceded this letter, M. Bassano showed a reluctance to answer Mr. Barlow's note of the first of May,<sup>4</sup> which is less to be wondered at when we learn that the decree of revocation of the

<sup>1</sup> September 30th, 1812; Annals of twelfth Congress, page 1198.

<sup>2</sup> Ibid. page 1180.      <sup>3</sup> Ibid. page 1247.      <sup>4</sup> Ibid. page 1247.

twenty-eighth of April was previously unknown to Mr. Barlow, and who remarks, in his despatch to Mr. Monroe, "I made no comment on the strange manner in which it had been so long concealed from me." The solution of this equivocal conduct is that the French Cabinet, or Napoleon himself, wished to secure the benefit of the revocation to France, but to withhold it as far as was practicable from the British and the American Governments.

The invasion of Canada had been one of the first measures for which the Administration had prepared, believing that to be the point in which Great Britain was most vulnerable by the means which the United States possessed. Accordingly, General William Hull, Governor of Michigan Territory, who had been appointed Commander-in-chief of the North-western army, early in July issued a proclamation addressed to the inhabitants of Canada, setting forth that the United States had taken up arms in defence of their rights ; that he had invaded their country ; but that he came not to injure, but protect them. Tendering to them civil and religious liberty, he exhorted them to remain quiet at their homes. He asked no assistance of them, having a force which looked down all opposition, and which would be followed by a much larger armament. He warns them against the employment of Indians, and says that if such policy is pursued by the British, it would be a war of extirmination. He offers them, in a word, the choice between peace, liberty and security on the one hand, and war, slavery and destruction on the other.

The war taxes having been indefinitely postponed, and the only pecuniary provision for carrying on the war being a loan of eleven millions of dollars, by way of further aid to the treasury, Congress authorised the issue

of five millions of treasury notes, bearing an interest of five and two-fifths per cent.

While the United States forces were preparing an invasion of Canada, the British in that quarter were not idle. An expedition was set on foot against Fort Mackinaw, and on the seventeenth of July it capitulated to a force of about three hundred British and a body of Indians. The garrison had no notice of the war, which implies great remissness both in the War Department and in Governor Hull. General Hull arrived at Detroit on the fifth of July, and Mackinaw, two hundred and fifty-four miles distant, surrendered on the seventeenth of July. The garrison might have received notice of the war in half that time.

After General Hull heard of the capitulation of Mackinaw, he thought it prudent to decline the attack he had meditated on Malden, a small town on the Canada side of Detroit River — for, should he fail in the attack, and the capture of Fort Mackinaw be succeeded by that of Fort Chicago, all the fortified posts west of Detroit would be in the hands of the enemy, and Detroit itself would then prove an easy conquest, when the whole North-western army, hemmed in on every side, would be obliged to capitulate. Meanwhile, he used all the efforts he could to procure reinforcements, and remained at Sandwich, a Canadian town opposite to Detroit.

After some unimportant skirmishing at the outposts, a council of war was called, and it was determined to make a vigorous attack on Fort Malden, which the Americans had no doubt of reducing, considering the force they possessed, and the determined and sanguine character of the assailants, whose ardor had not yet been chilled by the cautious and irresolute temper of the Commander-in-chief. A detachment of one hundred and

fifty men, under Major Vanhorne was sent to escort some provisions from the River Raisin, thirty-six miles, to Detroit. They were attacked on their march by a superior force of British and Indians, but they succeeded in effecting a retreat in good order, with the loss of twenty-eight men killed and wounded: but the object of the expedition was defeated.

As soon as Major Vanhorne had left Sandwich, General Hull determined on abandoning the attack on Malden, against the earnest wishes of all his officers; and he further decided on evacuating Canada, and posting himself at Fort Detroit. Thus ended the empty boasts of the proclamation, which, intended to seduce some and intimidate others, now reacted on its author and his forces, and made them objects of contempt to the enemy, and even to their countrymen. The army was ordered to cross Detroit River in the night. They obeyed with reluctance and ill-suppressed indignation, for their confidence in their Commander-in-chief was now lost. In the morning, the American army was at Detroit.

A second attempt to transport the provisions from the River Raisin was made, and it was deemed important to keep open the communication, with a view to further supplies. For this purpose, Lieutenant-colonel Miller was placed at the head of a detachment of two hundred regulars and two hundred militia. The British expecting a renewal of the enterprise with a larger force, had augmented their own strength to seven hundred men, and might receive a reinforcement from Malden, opposite to which was the village of Brownstown, which they had taken possession of two days before. They erected breastworks in the neighborhood, behind which they meant to conceal themselves until the Americans approached near enough to be assailed with advantage.

Major Muir commanded the British regulars, and Tecumseh the Indians.

On the ninth of August, the Americans drew near to the ambuscade before they discovered it. Captain Snelling, commanding the advance, bravely sustained the first attack until he was joined by the main body of the detachment, when they were all suddenly and vigorously assailed by the enemy and his savage allies. They were met with a coolness and firmness quite unexpected, and the enemy were at first thrown into disorder; but the Indians, disdaining to fly, and still obstinately fighting, the British recovered from their first confusion, and encouraging the Indians, amounting to five hundred, their peculiar mode of warfare was exhibited in all its horrors—uttering the most fearful whoops and yells, and running to and fro, in their thirst for the lives of their enemies, utterly regardless of their own. The Americans, now despairing of success, or even safety, determined to sell their lives as dearly as they could. Their firmness and efforts of bravery had the effect of destroying the confidence of the enemy, who began to give way, and were finally driven into Brownstown, where boats, provided for the purpose, took them across the Raisin to Malden. Their loss was seventeen killed and wounded, and nearly one hundred Indians were left on the field. The Americans lost fifteen killed, and between thirty and forty wounded.

The garrison at Fort Chicago, of fifty-four men, now Fort Dearborn, had orders to abandon it; but on their march were attacked by the Indians, and were obliged to accept the protection of a friendly tribe.

But all attempts to procure further supplies of provisions must now be unavailing, for the British had taken a position opposite to Detroit, which they soon fortified,

so that Major Denny, then at Sandwich with two hundred and fifty men, found it prudent to cross over to Detroit.

On the fifteenth, a summons was received from the British, demanding a surrender of the garrison of Detroit, then containing General Hull and a force of eleven hundred men; to which an answer was returned, that the place would be defended to the last extremity. The British batteries were then opened, and shells were thrown into the town from four o'clock till midnight. The fire was returned with little effect. The attack recommenced the next morning at daylight, while British troops, under the protection of their ships, crossed the river and landed at Spring Wells, and at ten o'clock proceeded along the bank of the river towards the Fort.

It had been suggested to General Hull that the landing of the British could be effectually prevented by fortifying a strong position on the river. The advice was unheeded, and after the enemy had secured a landing, no resistance could be effectual until he approached the town of Detroit or the Fort. For these objects, the fourth regiment was posted in the Fort; the Ohio volunteers, and part of the Michigan militia, behind pickets; the residue of the militia were in the town, to resist the Indians; and two twenty-four pounders, charged with grape, were posted advantageously on an eminence. The force of the Americans was equal to that of the enemy, and their position superior. They were well provided with ammunition; had provisions for fifteen days; and, what was not the smallest advantage, they felt confident of success. But these high hopes were destined to bitter disappointment. One of those panics which the contagion of fear sometimes communicates to a whole army,

was here confined to the Commander, but was equally ruinous in its consequences.

When the British column had approached within five hundred yards of the American line, General Hull ordered his forces to retreat to the Fort, and not to open the twenty-four pounders on the enemy. The suspicions silently entertained before, against the Commander-in-chief, now burst forth in expressions of indignation and contempt. They, however, obeyed the order, and retreated to the Fort, hardly affording space sufficient to contain them. They were then ordered to stack their arms; and a white flag, suspended from the walls of the Fort, excited as much astonishment with the British as mortification with the Americans. They were thus ignominiously surrendered to an equal force, without an attempt at resistance, and without any stipulation of terms granted or even asked for. Thus, those who had only a few days before, with an inferior force, beaten the same enemy, the detachments which had been sent out of the Fort, the volunteers and all the provisions at Raisin, the fortified posts and garrisons, and the whole territory of Michigan, were delivered up to General Brock, the British commander. With the ammunition surrendered were twenty-five iron pieces of ordnance and eight brass pieces, most of which had been taken from the British in the Revolution.

The detachments under Colonels Cass and M'Arthur, which had been despatched on the fourteenth to assist in the transportation of provisions, had been ordered, the day before the surrender, to return to the Fort; and when they came within sight of the opposing troops, they were utterly at a loss to account for their inaction; but knowing that, in case of an attack by the British, they would, by their timely arrival, be placed between

two fires, an order from General Hull soon removed all doubts, and informed them that, by the act of their General, they were prisoners of war. General Hull and the regulars were carried to Montreal, and the militia allowed to return home.

The indignation and surprise at this unexpected and disgraceful surrender which was felt by all the inhabitants of the North-west, was scarcely inferior to that of the army, and the same sentiments were soon diffused over the nation. Between cowardice and treason, the last was deemed the most probable cause of Hull's conduct; and in consequence of connections between some member of his family with a British subject, the public, always credulous in what confirms their suspicions, found sufficient evidence of the fact. He was subsequently duly tried by a court-martial, and acquitted of treason; but being found guilty of cowardice, neglect of duty, and unofficer-like conduct, he was condemned. A sentence of death was passed on him; but being recommended to the mercy of the President, in consideration of his advanced age and revolutionary services, he was pardoned.

It has since been ascertained that the British force was, of regulars, three hundred and eighty-two; Indians, six hundred and fifty; militia, three hundred and sixty-seven — in all, thirteen hundred and ninety-four. The American force,<sup>1</sup> by the report of the morning, was ten hundred and fifty men, exclusive of the detachment of three hundred and fifty men and three hundred Michigan militia then on duty — making, in all, seventeen hundred and fifty men; but deducting the detachments under Colonels Cass and M'Arthur, the forces were nearly equal.

Thus ended the first invasion of Canada; and its utter

<sup>1</sup> Alison states the American force at twenty-five hundred men.

failure, under circumstances which had promised certain success, had a disastrous influence on all subsequent enterprizes against that province.

Amidst the disappointment and gloom which this disgraceful surrender caused to the people of the United States, they soon found a consolation in a quarter where scarcely any one had looked for it: and that was afforded by their gallant little navy.

Soon after war was declared, a squadron of three frigates, one sloop-of-war, and one brig, sailed from New York on a cruise. On the third of July, the Essex, Captain Porter, also sailed from the same port; and the Constitution, Captain Hull, from the Chesapeake. Some smaller vessels were, at the same time, cruising off the coast. On the seventeenth, a British squadron, consisting of several frigates, with a ship-of-the-line, fell in with the Constitution, and gave chase to her. It being calm, warping and towing were resorted to by Captain Hull to effect his escape; but all the boats of the squadron having been attached to two of the frigates, they had gained so much on the Constitution as to bring their guns to bear on her. The chase continued till night. But the next morning a breeze springing up, the Constitution spread all her canvass, and was found to outsail her enemies. She thus effected her escape, and arrived safely at Boston. The chase lasted sixty hours, and the escape has been properly regarded as the highest proof of the superior seamanship of Captain Hull. Two of the frigates were warped by six times the number of men and boats employed by the Constitution.<sup>1</sup>

On the thirteenth of August, the frigate Essex fell in with the British sloop-of-war, the Alert, of twenty guns, which ran down on the frigate's weather-bow, gave

<sup>1</sup> II. Cooper's Naval History, page 47.

three cheers, and opened her fire ; but in eight minutes she struck her flag. It is said that the Alert, deceived by the assumed disguise of the Essex, mistook her for a merchantman.<sup>1</sup>

On the nineteenth of August, the Constitution discovered a large English frigate, to which she gave chase, and after a sharp engagement of forty-five minutes, the foe surrendered. She proved to be the Guerriere, of thirty-eight guns, but carrying forty-nine, and commanded by Captain Dacres. The Constitution did not return the fire of her enemy until she approached so near that every shot was likely to take effect. This forbearance was at first imputed, by the enemy, to timidity, and was somewhat annoying to Captain Hull's own crew ; but his fire once begun, broadside followed broadside with great rapidity, and with deadly effect. After fifteen minutes of this close and rapid cannonading, the enemy's mizzen-mast was shot away, and the Constitution, placed in a situation to rake the British ship, cleared her decks with grape and musketry : the Guerriere being now unmanageable, the Constitution prepared for boarding. The commanding officer of the marines was killed in the attempt, and at the same moment the Guerriere shot ahead of the Constitution ; but exposed as she was to the raking fire of her enemy, her fore-mast and main-mast also went over her side. Being thus a mere wreck, she struck her flag, having lost, in killed and wounded, one hundred and two men. The loss of the Constitution was seven killed and seven wounded.<sup>2</sup>

Having taken the prisoners on board the Constitution, Captain Hull set fire to the Guerriere, confident that, in her crippled state, she could not be brought to port.

The joy and surprise with which this victory was

<sup>1</sup> II. Cooper's Naval History, page 53.

<sup>2</sup> Ibid. page 55.

received throughout the United States was excessive. The prestige of British invincibility was now destroyed. Captain Hull was every where greeted with enthusiasm by the people, and loaded with honors by Congress and the State Legislatures. Many of them voted him thanks and a sword. Congress, besides a vote of thanks, gave to him and his crew fifty thousand dollars. This capture excited still more surprise in England than it had done in the United States, and numerous were the excuses devised for the capture, by way of soothing the national pride in a point on which, of all others, it was the most sensitive.

The Northern lakes also were the scene of naval contests on a small scale, in which, too, the same bravery and skill were exhibited by the Americans as on the ocean.

This naval victory of the Commodore for a time blotted from the memory the errors and guilt of his kinsman, the General; and thus the name of *Hull* in the United States, like that of *Bacon* in England, is associated with far greater glory than disgrace.

In October, the sloop-of-war Wasp fell in with a number of vessels under convoy of the British sloop-of-war Frolic, of twenty-two guns. An engagement ensued, in which the Wasp lost her maintop-mast, and was otherwise much damaged in her spars and rigging, but contrived to lay herself on board the Frolic, when not a single man was found alive on her deck, except a seaman at the wheel and three officers, who readily surrendered. Her loss was estimated to be thirty killed and fifty wounded. The Wasp had five killed, and as many wounded.<sup>1</sup> But soon after the Frolic submitted, both vessels were captured by a British ship-of-the-line. In

<sup>1</sup> II. Cooper's Naval History, page 63.

this contest, the captured vessel was superior to her antagonist by four guns. On Captain Jones's return to the United States, he was greeted by testimonials of his country's approbation and gratitude, and Congress voted to him and his crew twenty-five thousand dollars.

On the twenty-fifth of the same month occurred the third naval victory of the United States, without counting the Alert.

The frigate United States, commanded by Stephen Decatur, was one of the squadron under Commodore Rodgers; and having separated from the rest, she fell in with the British frigate Macedonian, Captain Carden, rated at thirty-eight guns, but carrying forty-nine. The Macedonian being to windward, began the engagement when he could choose his position; and thus, on account of the distance between the two ships, for half an hour the American had no opportunity of using her carronades. The United States having been able to make a nearer approach to the enemy, then opened so rapid a discharge of broadsides, that the enemy supposed her to be on fire. The Macedonian's mizzen-mast was soon shot away, her top-masts by the caps, her lower masts badly wounded, her main-mast destroyed, and all her rigging cut up. Most of her guns being disabled, and over one-fourth of her crew killed or wounded, she was compelled to surrender after an action of an hour and a half.

On Captain Carden's offering his sword to Decatur, he, as generous as he was brave, replied, "He could not receive the sword of a man who had defended his ship so bravely." The enemy's loss amounted to thirty-six killed, and sixty-eight wounded. The loss of the United States was five killed and seven wounded. The ship received no material damage, and returned to port only to see her prize safely in. The superiority of gunnery

on the side of the Americans was shown not only in the difference of execution, but in the number of broadsides—they having fired seventy broadsides, while the Macedonian fired but thirty-six. She was brought into New London, whence she was carried through the Sound to New York.

As the fruit of this capture was exhibited to the senses, its effect in exciting the pride and joy of the nation was scarcely less than that caused by the victory over the Guerriere. The ship was bought by the government for two hundred thousand dollars. Decatur was voted a sword both by the State of Virginia and of Pennsylvania, and by Congress a gold medal: he also received numerous other testimonials of the public gratitude.

The only drawbacks from these naval successes were the capture of the brig Nautilus,<sup>1</sup> of fourteen guns, by the squadron which had given chase to the Constitution, and the schooner Vixen, of the same force, by the British frigate Southampton. Both this vessel and her captor were wrecked on one of the Bahamas, when the crew of the frigate became mutinous, and the property saved from both wrecks was effected by the American sailors, under the command of Captain Reed, who received the private acknowledgment of the British Captain, Sir James Yeo, and an offer to return home, but he refused to abandon his officers and men. In consequence of this generosity, he fell a victim to the unhealthful climate of the place.

These victories at once gave to the navy a popularity which it has ever since retained.

Congress met, according to appointment, on the first Monday in November, and the next day the President sent his annual message<sup>2</sup> to both Houses of Congress.

<sup>1</sup> This vessel had originally been a schooner.

<sup>2</sup> Annals of twelfth Congress, page 11.

He speaks of the military force which had been placed in the Michigan Territory under the command of Brigadier-general Hull, its objects, and its failure by the surrender of Detroit and of the force under Hull. Under these adverse circumstances, he finds consolation in the patriotic spirit which they had called forth in the nation. The other military events on the frontier are also noticed, as are the efforts made to obtain a naval ascendancy on the lakes.

He mentions the refusal of Massachusetts and Connecticut to furnish detachments of militia for the defence of the maritime frontier, and refers to the correspondence upon the subject.

The capture of a British frigate, and the success of public and private cruisers, are also mentioned.

Anxious to abridge the duration of war, he lost no time, after its declaration, in informing the British Government of the terms on which its progress might be arrested. Although the orders in council were revoked before this pacific advance, the offer to them was declined.

With a view of an efficient prosecution of the war, he recommends additional encouragement to the recruiting service, and to that of volunteers; an increase of general officers; a revision of the militia laws; an enlargement of the navy; and further provisions against the acceptance of British licenses.

After the orders in council were revoked, British goods, to a large amount, were imported under the mistaken impression that the non-importation act had then ceased. The subject of the consequent forfeitures is referred to the equitable consideration of Congress.

With the impost thus increased, the receipts into the treasury had been sixteen and a half millions of dol-

lars, sufficient to meet all the expenses of the Government, and to discharge nearly three millions of the public debt.

He concludes with an animated defence of the course taken by the nation, and a fervid appeal to its patriotism and pride.

One of the first measures of Congress, dictated equally by policy and justice, was a resolution to present a gold medal to Captain Isaac Hull, and fifty thousand dollars to the officers and crew of the Constitution, for the capture of the British frigate Guerriere.

A bill to regulate the pay of the army contained a provision that any person beyond the age of eighteen might enlist. This provision was vehemently denounced by the Opposition, as inviting apprentices to leave their masters, and as therefore unequal and unjust in its operation. But it was as vehemently defended by the majority.

Mr. Quincy, in declaiming against this law, said : "Take a slave from his master, on any general and novel principle, and there would be an earthquake from the Potomac to the St. Mary's. Bribe an apprentice from his master ; seduce a son, worth all the slaves that Africa ever produced, from his father, we are told it is only a common affair. It will be right when there is law for it. Such is now the law in France !" In conclusion, he said : "Pass this law, and if the Legislatures of the injured States do not come down upon your recruiting officers with the old laws against kidnapping, they are false to themselves, their posterity, and their country."

Mr. Quincy was supported in his opposition by Messrs. Wharton, Pitkin, and Randolph. The bill was warmly defended by Messrs. Fisk, Williams of South Carolina, and Troup. But the opponents of the bill so far pre-

vailed, that every enlistment of a person under twenty-one required the written consent of his parent or guardian to make it valid.

The other laws for the national defence were an act authorising the President to raise additional regiments, not exceeding twenty; an act authorising him to appoint six Major-generals and six Brigadier-generals; another, to raise ten companies of rangers to protect the frontiers; and another, to provide for the supplies of the army, and the organization of the general staff.

A law also passed for increasing the navy by building four ships, to carry not less than seventy-four guns each, and six forty-four gun frigates. This branch of the service had continued to increase in public favor by its continued successes reported to Congress during its session. The bill finally passed by seventy votes to fifty-six.<sup>1</sup>

The President was authorised to retaliate any violation of the usages of war on any citizen of the United States, and any act of cruelty or barbarity practised by Indians in alliance with the British Government.

This power of retaliation was earnestly contested, and once was rejected by a small majority; but it at length, after some amendments, was passed by sixty-nine votes to thirty-three.<sup>2</sup>

A further issue of treasury notes, to the amount of five millions, and a loan of sixteen millions, were authorised at this session.

The public revenue had been greatly aided from an unexpected source. Dutiable goods, to a large amount, had arrived from England, in consequence of the revocation of the orders in council on the twenty-third of June.

This subject gave rise to a protracted and animated

<sup>1</sup> Annals of twelfth Congress, page 1004.

<sup>2</sup> Ibid. page 1144.

discussion. On the merits of the principal question involved, the House was almost equally divided. It grew out of the following state of facts :

After the British orders in council were revoked (on the twenty-third of June), the American merchants then in England, or their agents, presuming that the non-importation act of Congress would be forthwith repealed, immediately shipped British merchandize to the United States ; and they were encouraged to take this course by the opinion and advice of Mr. Russel, then the *Chargé d'Affaires* for the United States. On the arrival of the goods, they were seized by the custom-house, and libelled for a violation of law. The courts having decreed their forfeiture, allowed the goods to be restored to the merchants claiming them, on their giving bonds to the United States to the amount of their cost. They petitioned Congress to remit these bonds, under the circumstances ; and the committee to whom these petitions were referred, reported that, under the existing law, it was competent to the Secretary of the Treasury to give relief ; and they therefore proposed to leave the question to his decision.

It was agreed, on all sides, that the petitioners were entitled to some relief ; but the question was as to the amount. Mr. Gallatin was of opinion that as the goods were enhanced in value by the very law which the importers had violated, they ought to pay to the Government what would be equivalent to the extra profit they would make. But it was maintained, on the other hand, that they were warranted, under all the circumstances, in sending home their property without loss of time : that their extra profits had been overrated : their extra charges were also high ; and to compensate their unwonted profits, the public paid a lower price for such

goods by reason of these importations; and that the duties they had paid into the treasury amounted to six millions; and lastly, that sound policy was against exciting the hostility of a numerous, wealthy, and powerful class.

Their principal advocates were Messrs. Cheves, Calhoun, Quincy, and Lowndes. Mr. Clay proposed to discriminate between the claimants, but his motion failed. Messrs. Johnson, Grundy, and Newton were in favor of leaving the question with the Secretary of the Treasury. The bill directing the Secretary to remit the forfeitures passed the House by sixty-four votes to sixty-one.<sup>1</sup>

The bill for raising an additional military force opened a yet wider field of debate in Committee of the Whole, and all the party topics which the restrictions on commerce, the undue bias in favor of the English or French, the relative demerits of those nations, and the justice or policy of the war, all mingled in the discussion, and called forth much heat and personality.

This act passed the House by a strict party vote of seventy-seven yeas to forty-two nays,<sup>2</sup> with the exception of that of Mr. Lowndes. The Senate, by amendment, required the concurrence of that body in all appointments made under it, while that body was in session, to which there was no opposition in the House.

As the impressment of American seamen by the British was one of the principal causes assigned for the war; and they alleged, in justification of the practice, that they were in search of their own subjects, according to their assumed right, and that if, in the exercise of this right, they sometimes impressed American seamen, it was an involuntary error, which they were always ready to correct. To take away this pretext, fallacious as it

<sup>1</sup> Annals of twelfth Congress, page 450.

<sup>2</sup> Ibid. page 843.

was, a bill was introduced which prohibited the employment of any seamen except such as were natives, or had been naturalized, or had made the declaration required by the naturalization laws, to take effect after the termination of the war. This act was to operate only in favor of the nations which should have forbidden, by treaty or convention, the employment of native American seamen, who had not been made citizens or subjects of such nation. The act further provides that no person shall become a citizen of the United States who shall not have resided for the preceding five years within their territorial limits.<sup>1</sup>

This act passed the House by the large majority of eighty-nine to thirty-three,<sup>2</sup> but members of either party were found both among the ayes and the noes.

The Southern Indians of Florida, and in the Western part of Georgia, having heard of the success of the red men on the lakes, prepared also for war, and committed great outrages on the frontier settlements of the whites. They were supplied by the British with guns, hatchets, and ammunition at St. Mark's, in Florida, and they commenced a course of undisguised warfare. Though these contests, which were principally the result of individual effort and enterprize, present few materials for general history, yet they afford as good opportunities for individual bravery, prudence, and all the military virtues, as where large armies meet each other, and exposed those who engaged in them to a greater variety of privation and suffering.

After the successive surrenders of Mackinaw, Chicago, and Detroit, with the troops under Hull, it was necessary to organize a new army for the North-west, which was

<sup>1</sup> See the law, Annals of twelfth Congress, page 1339.

<sup>2</sup> Ibid. page 1055.

greatly favored by the temper of the people in the neighborhood, who could ill brook that rigor of authority under the new government to which they were now subjected ; and in the other States there was a strong desire to wipe off the national disgrace incurred by Hull's surrender. Volunteers from Pennsylvania, Ohio, and Virginia offering themselves, together with the seventeenth regiment of the United States, were to proceed to Fort Wayne, and thence descend to the Rapids of the Miami of the Lakes—the place of general rendezvous ; and the chief command was given to General William Henry Harrison, Governor of Indiana.

At this time, Forts Harrison and Wayne were garrisoned by a very small number of men, and they therefore presented themselves as fit objects of attack to the British and the Indians.

Fort Harrison, containing only eighteen men, was invested, on the third of September, 1811, by the Prophet's warriors, amounting to three hundred men. They endeavored to set fire to one of the block-houses, so as to make an opening to the Fort. By the bravery and skill of Captain Zachary Taylor they were repulsed ; but the garrison was left without provisions, its stores having been consumed by fire, and it was compelled to subsist on green corn. It, however, soon had the satisfaction of being joined by six hundred mounted rangers and five hundred infantry, sufficient to defy any attack the Indians could make.

Fort Wayne had a larger garrison, seventy men, but was much more exposed. The Indians attacked it on the night of the fifth of September, and again on several subsequent nights ; but on the arrival of General Harrison's troops the Indians took to flight, after having destroyed the growing crops in the neighborhood of the

Fort. To make the Indians feel, in turn, the consequences of their own destructive warfare, General Harrison sent out scouting parties against their settlements, by whom provisions were obtained from the Indian towns, and their settlements were broken up.

The Indians, though thus repulsed in one quarter, soon appeared in another, according to their desultory mode of warfare, so as to keep the troops of General Harrison constantly on the alert. No warriors can be more brave or adventurous in attack than the Indians, when they think there is any chance of success; but when they find themselves overpowered, none are more ready or fleeter in retreating.

But preparations were now made for a more serious struggle on the Niagara and St. Lawrence, where the population on both sides was much denser. The whole force in this quarter was put under the command of Major-general Dearborn, of Massachusetts. The troops on the Niagara were commanded by Brigadier-general Van Rensselaer, of New York; and Brigadier-general Smyth, of Virginia, was stationed at Black Rock, on the Niagara. The force on the St. Lawrence was commanded by Brigadier-general Brown, of New York. A gallant exploit was performed by Captain Forsythe, who, at the head of seventy regulars and thirty-four militia, crossed the river in the night, and being attacked by a party of regulars and militia more numerous than his own, twice repulsed them; after which he set fire to the king's store-house, brought off the arms and ammunition, released the American prisoners on their parole, and made a number of prisoners both regulars and militia, with the loss of only one man killed and one wounded.

The enemy determined, in retaliation, to destroy the town of Ogdensburg, situated on the St. Lawrence oppo-

site to the Canadian town of Prescott. After bombarding Ogdensburg on the second and third of October, they prepared, with forty boats, to storm the town, where General Brown then commanded. They were met by so warm and well-directed a fire, that one of their boats was captured, and two others so shattered that they were deserted by the crews, after which they abandoned the enterprize.

There was now a large American force collected on the Niagara. The troops under General Van Rensselaer were near six thousand, of whom twenty-nine hundred were at or near Lewiston; thirteen hundred regulars under Lieutenant-colonel Scott, near Black Rock; five hundred militia and volunteers at Black Rock and Schlosser; six companies of artillery and about eight hundred regulars, under Major Mullany, at Fort Niagara. With this force there was an active spirit of enterprize, which had been much encouraged by the capture, some days before, of the British brigs Detroit and Caledonia, by Lieutenant Elliot, of the navy.

The first object of attack was Queenstown, a post of great importance to the Americans in any attempt on Canada. It is just below the great fall of Niagara, at the head of navigation in that river, and opposite Lewiston. It is a place of deposit for the merchandize supplied to the country above it, and for the public stores. It has a good harbor and anchorage, and its banks, on both sides, have that great sharpness and elevation which uniformly prevails below the falls.

Preparations were made for crossing the river on the night of the third of October; but, by reason of the mismanagement of those employed, the crossing was not hazarded. The attempt was made on the morning of the thirteenth, under cover of a battery of two eighteen-

pounders and two sixes. The British, who were apprised of the attempt, collected all their force in the neighborhood to oppose them. As the river here runs with great force, some of the boats were carried below the intended point of landing, in consequence of which a part of them returned, and two of the thirteen fell into the hands of the enemy.

Colonel Van Rensselaer, who commanded the enterprise, however, succeeded in landing the van of his force, about one hundred men, under a galling fire from the enemy; and in ascending the banks, he and three of his officers were wounded, and one<sup>1</sup> was killed. The party, exposed to the fire of a strong battery, were obliged to retreat and shelter themselves under the banks. They were then ordered to storm the fort, which they carried after three desperate charges, and drove the enemy down the hill. Reinforcements were soon able to join them; but by ten o'clock the British line was again formed, and Lieutenant Christie succeeded in crossing the river with five hundred men; and General Brock arrived about the same time, with a body of British regulars from Fort George. In leading his men round the heights to the rear of the battery, a sharp conflict ensued between his force and a detachment of one hundred and sixty men under Captain Wool, which was, however, driven back. Affairs appeared to be so desperate that one of the officers was in the act of hoisting a white flag, when Captain Wool tore down the flag, and ordered his officers to rally the men, and bring them to a charge. Being now reinforced to the number of three hundred and twenty men, they charged the British, routed the forty-ninth regiment of six hundred men, and pursued until the detachment regained the high ground it had lost. General Brock,

<sup>1</sup> Lieutenant Vallance.

indignant at this flight of his men, and endeavoring to arrest it, lost his own life. Both he and his aid, Captain M'Donald, fell at the same instant.

Early in the afternoon, Scott and Mullany crossed the river, and took the commands assigned to them. General Van Rensselaer prepared for an encampment, which, however, he thought it prudent to fortify. His whole force was nine hundred and twenty men.

About three o'clock, the British, reinforced by seven hundred Indians, made a fierce attack on the Americans, who had then thought the enemy beaten. The Indians were repulsed and routed. Van Rensselaer finding the rest of his troops were tardy in crossing the river, crossed over to Lewiston to expedite their movements. He there had the mortification to find more than twelve hundred men quiet spectators of the battle in which they should have been actors; and no efforts of his could induce them to join their brave countrymen, and share in their danger and their glory. Had they crossed over, the capture of the town must have been certain. But they availed themselves of the privilege allowed them by the laws, not to be compelled to pass the limits of their State, and thus used a provision intended for their protection, to disgrace their country. Neither orders nor entreaties had any effect.

In the meantime, another reinforcement of the British was seen approaching, and in spite of the American battery on the hill, succeeded in joining the Indians. General Van Rensselaer despatched a note to General Wadsworth, informing him of the conduct of the militia, leaving him to act as he thought best, and if he decided on a retreat, he would send over as many boats as he could collect.

The last British reinforcement was eight hundred

men, and a sharp conflict ensued with the American troops, when these, finding their strength unequal to the contest, on the receipt of the General's note, decided on a retreat, which was effected in good order from the point at which they had disembarked. But when they had arrived at this point, they were able to retreat no farther. Some of their boats had been destroyed, others captured, and only four or five remained. Even these, during the last engagement, were abandoned by the boatmen, so that but a small number effected their escape. The residue, amounting to three hundred and eighty-six regulars and three hundred and seventy-six militia, including their wounded, were obliged to surrender. Their killed were estimated at ninety. The prisoners were treated with humanity by the victors, but they were not able to restrain their savage allies, who stripped and scalped the dying as well as the dead.

The number of British, except in the first engagement, was never less than eleven hundred, and in the last, much greater. Such of the prisoners as were not paroled, were taken to Montreal.

After this there were several minor enterprizes on both sides, attended with various success. General Van Rensselaer having resigned his command on the Niagara, General Smyth prepared for another invasion of Canada, and proposed to land his forces between Fort Erie and Chippewa. To ensure success to his enterprize, he invited volunteers to one month's service, and submission to strict camp discipline, and issued a proclamation to that effect on the tenth of November. It was successful, and on the twenty-seventh his force amounted to forty-five hundred, consisting of regulars, and volunteers from Baltimore, Pennsylvania, and New York—the last under the command of General Porter. They were to embark

on the following morning from Black Rock, where seventy boats were provided, capable of carrying forty men each, five more able to carry one hundred men each, besides scows for the artillery and small boats. A second proclamation was now issued, in which he said one army had been disgracefully surrendered; another had been sacrificed by a precipitate retreat at the strongest point of the enemy's lines, and by incompetent means; and more of the same disparaging character against his predecessors.

Ten boats were appointed to take the lead, and after landing, to storm the enemy's batteries. They set off on the morning of the twenty-eighth of November, but encountering a heavy fire from the British, five of them put back. The other five effected their landing in good order, with a force of sixty regulars and fifty sailors, stormed the enemy's principal batteries, spiked the guns, and made a desperate assault upon the Red House, to which two hundred and fifty of the British had retreated, and drove the enemy down, after making several prisoners. Every battery between Chippewa and Fort Erie was now carried. The boats then returned with the wounded and the prisoners, leaving Captain King with twelve men, until the main body of the army should cross over. But this proved a vain expectation. At sunrise the embarkation began, and continued until, by the estimate of General Porter, the number embarked amounted to two thousand men, all eager to cross; but it was now two o'clock in the afternoon, and the troops were ordered to disembark, saying that the expedition was only postponed until the boats were put in a state of better preparation. This assurance silenced the murmurs of the army.

On Sunday, the twenty-ninth, an order was issued to

embark the next morning at nine o'clock, which was afterwards changed to three o'clock, at the instance of his higher officers. Soon after the appointed hour, all was in readiness, and the troops eager for the contest, the success of which they did not doubt; and when the advance of the line was a quarter of a mile from the shore, an order was received from General Smyth to disembarke. The troops were, at the same time, informed that the invasion of Canada was for the time abandoned. The regulars were ordered into winter-quarters, and the volunteers had permission to return to their homes.

The discontent and indignation which ensued exceeded that excited by Hull's surrender. The General was compelled to hear the reproaches and insulting expressions of the men, and he was even exposed to personal danger. He was several times fired at, and was obliged to double his guard around his tent. The volunteers offered to invade the enemy's territory, if he would give them four pieces of flying artillery, which offer was evaded, and the volunteers reluctantly and indignantly returned to their homes, which they had been induced to leave on the assurances of glory and victory from the men who now refused to lead where they were prepared to follow.

General Smyth's defence for his course is, that his orders were to cross with three thousand men, and that he could not ascertain the number who would go over until they were actually embarked; and that so many refused to enter the boats, when ordered, and had deserted, that, of the four thousand on the ground, the number embarked did not exceed fifteen hundred and twelve men, exclusive of the staff: that a council of his officers had advised against the enterprize from the insufficiency of his force: that he informed the officers that the

attempt at invasion would not be renewed until the army should be reinforced; and intimated that the clamors against him proceeded from the interested motives of a contractor who wished to relieve himself from a disadvantageous contract for furnishing supplies to the army while it remained on the American side of the Niagara; which insinuation having much to contradict it, received no credit.

As the command of the lakes would be of great importance in the present contest, efforts were soon made by each nation to obtain it. In addition to the vessels already provided on Lake Ontario, and which were then under the command of Commodore Chauncey, a large ship, to be called the Madison, was then on the stocks. Hearing that three of the enemy's squadron had proceeded up the Lake with troops to reinforce Fort George, Chauncey aimed to intercept them on their return, at a collection of small islands called The False Ducks. Those three vessels were the Royal George, of twenty-six guns; the Duke of Gloucester, of ten; and the Prince Regent, of fourteen guns. Commodore Chauncey's squadron consisted of the brig Oneida, of fourteen guns; the Governor Tompkins, of six guns; the Growler, of five guns; the Conquest, of two guns; the General Hamilton, of six guns; the Pert, of two guns; and the Julia, of one long thirty-two pounder — making, in all, thirty-six guns.

This squadron having fallen in with the Royal George, gave chase to her, and she went into the harbor at Kingston, whither she was followed by the American squadron, which being then exposed to the fire of five batteries, mounting forty guns, and the Royal George having retreated further up the bay, the American squadron abandoned the pursuit. The Commodore

having in vain attempted to decoy the Royal George to venture out, returned to Sackett's Harbor.

On the ocean, the American privateers proved a great annoyance to British ships, and exhibited a degree of daring and adventure which is not commonly found in that species of force, whose immediate object is gain. One of them, the Blockade, of New York, carrying only eight guns, was, after a murderous conflict, captured by the British brig Charybdis, carrying eighteen thirty-two pounders.

The Constitution, now commanded by Captain Bainbridge, left Boston in October with the Hornet, Captain Lawrence, and the two were to be joined by the Essex, Captain Porter. On the twenty-ninth of December, before these vessels met, the Constitution fell in with a British frigate. After much manoeuvring on both sides, between the enemy, which kept to windward in order to rake the Constitution, and the latter, to avoid being raked, the ships began the engagement at the distance of half a mile, but gradually came nearer; and the enemy having suffered much in his spars and rigging, and having lost his fore-mast and main-mast, finding he was about to be raked, surrendered. The ship proved to be the Java, of thirty-eight guns, but mounting forty-nine, commanded by Captain Lambert, who was mortally wounded. The Java had a crew of four hundred men, and one hundred supernumerary seamen, whom she was carrying out for the naval service in India. The Constitution had nine men killed, and twenty-five wounded. The Java had sixty killed, and one hundred and seventy wounded. The captured ship was so much injured, and required such repairs, that Captain Bainbridge decided on blowing her up.<sup>1</sup>

<sup>1</sup> II. Cooper's Naval History, page 68.

On his return to the United States, he received a welcome similar to that which had been given to Hull and Decatur, a medal from Congress, and fifty thousand dollars for himself and his crew. The actual force of the Constitution was fifty-four guns, five more than was carried by the Java. The weight of metal of the two appeared to be the same.

This being the fourth victory at sea by American ships, in the only instances of engagements between vessels of nearly equal force, left no longer any doubt in the mind of Americans that they were superior to the British on this, their favorite element; for although, in the case of the frigates, the force of the American vessels was superior, the difference in this respect was far exceeded by the difference of execution — one gun on board an American ship having killed and wounded six or seven times as many as a similar gun on board a British ship.<sup>1</sup>

An expedition against French Town having been

<sup>1</sup> The following comparison is made on the authority of Cooper's Naval History:—

	BRITISH.		AMERICAN.	
	Killed.	Wounded.	Killed.	Wounded.
Constitution and Guerriere.....	40	62	7	7
Wasp and Frolic.....	30	50	5	5
United States and Macedonian.	36	68	5	7
Constitution and Java.....	60	170	9	25
	—	—	—	—
	166	+ 350 = 516	26	+ 44 = 70

The author had himself been an officer in the American navy, and he must have been more or less than man, if, in recording the naval exploits of his countrymen, he had not often thought to himself, "I, too, might have been one of these heroes." But being cut off from a share in their glory, and limited to the office of their historian, he determined to discharge that duty with scrupulous fidelity. He has accordingly produced a work which, for fairness and accuracy, as well as technical skill, has probably no equal in naval annals.

planned by the British, General Winchester, on an application from the inhabitants, decided on opposing it with his force, then reduced to eight hundred men. Two detachments, under Lieutenant-colonel Allen and William Lewis, having been sent in advance of the main body, had an engagement with the advanced party of the British, amounting to about five hundred men, who, after an obstinate resistance, were finally charged, and put to flight. The Americans had twelve killed, and fifty-five wounded.

Two days afterwards, General Winchester joined these detachments, making in all seven hundred and fifty men; but on the twenty-second, their encampment was attacked by a combined force under Tecumseh and Colonel Proctor, amounting to twenty-one hundred men. The right wing, after a short resistance, attempted to retreat across the river. Two companies sallied from the breastwork to their assistance, but were either cut off or made prisoners by the Indians. The left wing bravely sustained itself within the pickets, but with the loss of thirty men killed, and more than ninety wounded. In attempting to rally the right wing, Winchester and Lewis, with other officers, were taken prisoners. The British commander threatened that the buildings in French Town would be immediately set on fire, in which case he would not be responsible for the conduct of the savages, unless the whole force immediately surrendered. Under these circumstances, General Winchester consented to surrender, on condition of their being protected from the Indians, and retaining their side arms. Thirty-five officers, and four hundred and eighty-seven non-commissioned officers and men, were accordingly surrendered.

The loss of the Americans in these confused and

bloody conflicts was twenty-two officers and two hundred and seventy-five non-commissioned officers and men killed, and two officers and twenty-two privates wounded. The loss of the British was stated, by Colonel Proctor, in his official despatch, to be twenty-four killed, and one hundred and fifty-eight wounded.

It seems that the British were not able to make good their engagement of protection against their savage allies, who are said to have massacred many of their prisoners, and then stripped and scalped them. Some were butchered immediately after they had surrendered on the promise of protection, and others on their march. The Indians also set fire to houses in French Town, and burnt the prisoners who had been placed in them. This was the fate of Captain Hart, an accomplished officer from Kentucky, who was massacred by the Indians to whom he had been entrusted to carry him to Malden. The conduct of General Proctor, and of the troops under him, on this occasion, has cast an unwonted stain on British faith and humanity.

Proctor's excuse was that the prisoners surrendered at discretion, and that, therefore, he was not bound to control the Indians — a statement at war with other narratives of the facts, and which, if true, afford no defence against his acquiescence in such inhuman violations of the usages of modern warfare. It was, moreover, inconsistent with the official declaration of the Governor-general, who complimented Colonel Proctor not only for his bravery, but for "his humane and unwearied exertions in rescuing the vanquished from the revenge of the Indians," for which merits he was promoted to the rank of Brigadier-general.

With a burning desire which now animated the American troops to avenge these atrocities, nothing was

effected during the remainder of the winter by the army under General Harrison, except in the preparatory measures of collecting a large force at the Rapids, and there building Fort Meigs, as well as fortifying some points on the Sandusky.

On the tenth of February, the votes given in the late Presidential election were counted in the Senate, when the result, long since known, appeared to be that James Madison, of Virginia, had received one hundred and twenty-eight votes as President; and De Witt Clinton, of New York, eighty-nine votes: that Elbridge Gerry, of Massachusetts, had received one hundred and thirty-one votes as Vice-President; and Jared Ingersoll, of Pennsylvania, eighty-six votes: from which it appeared that the Republican candidate had received a smaller proportion<sup>1</sup> of the Electoral votes than in the preceding election in 1809 — such had been the effect of the war on the popular sentiment, and the inefficiency with which it had been waged on land.

About the end of the session,<sup>2</sup> a message was received from the President, communicating the proclamation of the Governor of Bermuda, which recites an order in council of October preceding, for the supply of the British West Indies with provisions under special licenses.

This proclamation was accompanied by a circular letter from the Ministry to the Governor, in which, among the instructions for executing the order in council, it was directed that the licenses to trade “should be confined

<sup>1</sup> In 1809, Mr. Madison received one hundred and twenty-two votes of one hundred and seventy-five, equal to sixty-nine per cent.; and in 1813, he received one hundred and twenty-eight votes of two hundred and seventeen, equal to fifty-nine per cent.

<sup>2</sup> February 24th.

to the ports in the Eastern States, unless he should have reason to suppose that the object of the order would not be fulfilled, if licenses were not extended to other ports."

The President denounces, in strong terms, the policy thus adopted by Great Britain, which aims "to dissolve the ties of allegiance and the sentiments of loyalty in her adversaries." He thinks that these demoralizing and disorganizing contrivances will be reprobated by the civilized and Christian world, and that the insulting attempt on the honor and patriotism of the Eastern States will not fail to call forth their indignation, and attach them more closely to the Union.

But the better to defeat the insidious and corrupt projects of the enemy, he recommends that the trade under special licenses be effectually prohibited.

The message and documents were referred to the Committee of Foreign Relations, and a prohibition of all exportation from the United States in foreign bottoms.<sup>1</sup>

Bills were accordingly introduced by the Committee of Foreign Relations, both to prohibit exportations and the trade by foreign licenses; but after some opposition by the friends of the Administration, as well as its opponents, on the ground that it would be injurious to the interests both of commerce and agriculture, they both passed the House by decisive majorities, but were both indefinitely postponed in the Senate.

Among the last acts of the session were two requesting the President to present gold medals to Captains Hull, Decatur, and Bainbridge, and silver medals to each of their non-commissioned officers, in testimony of their gallantry and good conduct in their conflicts with British ships, and to Lieutenant Elliot a sword for his gallantry

<sup>1</sup> Annals of twelfth Congress, page 1116.

and good conduct in capturing the brigs Detroit and Caledonia.

The House adjourned to the fourth Monday in May, the day previously fixed for the commencement of an extra session ; and thus ended the twelfth Congress, and the first term of Mr. Madison's Administration, more than four-fifths of which had been one uninterrupted course of vexation and gloom, with the exception of the transient gleam of sunshine afforded by Erskine's arrangement.

For more than three years it was the hard fortune of these States either to submit to the freebooting system of England and France, or resort to ruinous expedients to escape it. Goaded, at length, to resistance, they took up arms against the one most accessible to them ; and they attempted an invasion for which they wanted the military skill, the means, and the preparation. The consequent early disasters subjected them to a new series of humiliations, when their gallant little navy, which had its own wrongs to avenge, came to the rescue, and its brilliant deeds at once cheered America, and astonished the world.



## A P P E N D I X.

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### ADDRESS<sup>1</sup> OF THE LEGISLATURE OF VIRGINIA TO MR. JEFFERSON, ON HIS RETIREMENT.

“SIR:—

“The General Assembly of your native State cannot close their session without acknowledging your services in the office which you are just about to lay down, and bidding you a respectful and affectionate farewell.

“We have to thank you for the model of an administration conducted on the purest principles of republicanism; for pomp and state laid aside; patronage discarded; internal taxes abolished; a host of superfluous officers disbanded; the monarchic maxim that ‘a national debt is a national blessing,’ renounced, and more than thirty-three millions of our debt discharged; the native right to near one hundred millions of acres of our national domain extinguished; and without the guilt or calamities of conquest, a vast and fertile region added to our country, far more extensive than her original possessions, bringing along with it the Mississippi and the port of Orleans, the trade of the West to the Pacific Ocean, and in the intrinsic value of the land itself, a source of permanent and almost inexhaustible revenue. There are points in your administration which the historian will not fail to seize, to expand, and to teach posterity to dwell upon with delight. Nor will he forget our peace with the civilized world, preserved through a season of uncommon difficulty and trial; the good-will cultivated with the unfortunate aborigines of our country, and the civilization humanely extended among them; the lesson taught the inhabitants of the coast of Barbary, that we have the means of chastising their piratical encroachments, and

<sup>1</sup> This Address was from the pen of William Wirt, the Chairman of the Committee who prepared it. The vote on it, in the House of Delegates, was one hundred and sixteen to twenty-four.

awing them into justice; and that theme, which, above all others, the historic genius will hang upon with rapture, the liberty of speech and the press preserved inviolate, without which genius and science are given to man in vain.

"In the principles on which you have administered the government, we see only the continuation and maturity of the same virtues and abilities which drew upon you, in your happy youth, the resentment of Dunmore. From the first brilliant and happy moment of your resistance to foreign tyranny until the present day, we mark with pleasure and with gratitude the same uniform and consistent character — the same warm and devoted attachment to liberty and the Republic — the same Roman love of your country, her rights, her peace, her honor, her prosperity.

"How blessed will be the retirement in which you are about to go! How deservedly blessed it will be! For you carry with you the richest of all rewards, the recollection of a life well spent in the service of your country, and proofs the most decisive of the love, the gratitude, the veneration of your countrymen.

"That your retirement may be as happy as your life has been virtuous and useful; that our youth may see, in the blissful close of your days, an additional inducement to form themselves on your model, is the devout and earnest prayer of your fellow-citizens who compose the General Assembly of Virginia."

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